

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No. 4830 of 2018 (O&M)

Date of decision : 11.12.2018

Naresh Kumar & anr.

....Appellants

V/s

Subhash Dramatic Club (Regd.) Hansi & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Pawan Kumar, Sr. Advocate with
Mr. Rohit Kumar, Advocate for the appellants.

RAJAN GUPTA J.

Present appeal has been preferred by the appellant aggrieved by the judgment and decree of two courts below dismissing the suit. Learned counsel for the appellants submits that findings of both the courts are unsustainable. They have not appreciated the evidence in correct prospective and decided the case on the basis of unreliable evidence lead by defendants. Thus, impugned orders deserve to be set-aside.

I have heard learned counsel for the appellants.

Brief factual background of the case is that plaintiffs filed a suit for declaration to the effect that defendants had no right to change the shape of stage or raised any construction on the portion marked as ABCDE in the site plan; with a further prayer that order dated 16.11.2007 and resolutions passed after 31.10.2007 were illegal, null, void and liable to be set-aside. It was contended that defendant no. 1 - Subhash Dramatic Club, Hansi was a registered society under the Societies Registration Act, 1860 and defendants no. 2 to 7 were its members. It was averred that defendant no. 1-Club was

established with a view to enhance the social values in the Society by

showing different dramas, religious & historical values and other dramas of national importance. However, defendants no. 2 to 7 in collusion with each other demolished the suit property and had constructed shops over the same. They have also misappropriated the funds of the Club. Suit was resisted by defendants. They filed written statement and denied any irregularities in the Club. After considering the evidence brought on record, trial court came to the conclusion that plaintiffs have miserably failed to prove the case and were not entitled for any declaration. It, thus, dismissed the suit. Findings were unsuccessfully challenged before the lower appellate court. I find no infirmity with the orders passed by the courts below. It appears that Ram Bilas was the President of the Club on 01.08.1987 and was appointed as Arbitrator of the Club for all future disputes arising between the parties. He gave two notices to Laxmi Kant (appellant no. 2 herein) to remain present in the office of Subhash Dramatic Club with regard to the allegation that he had given an affidavit in the court in favour of one Kamal Gupta in an ejectment petition. As he did not come present, respondent no. 3 -Ram Bilas being the Arbitrator passed the order vide which he cancelled the membership of Laxmi Kant -appellant no. 2. No oral or documentary evidence was produced by the plaintiffs before the courts below to show that defendants were changing the nature of the suit property and were not showing any religious and historical dramas. After going through the judgments rendered by two courts below, I find no infirmity in the appreciation of evidence. No other question of law has been urged. This second appeal is, thus, without any merit and is hereby dismissed.

December 11, 2018

Ajay(RAJAN GUPTA)
JUDGE