

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 268

CR-4927-2017

Date of decision : 09.04.2019

Brahm Sarup

..... Petitioner

VERSUS

Randhir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sachin Mittal, Advocate, for the petitioner.

Mr. Madan Pal, Advocate, for the respondents.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 03.11.2014, passed by the Civil Judge (Junior Division), Pehowa (for short, the Trial Court), through which an application filed by the respondents under Section 92 CPC has been accepted. Also under challenge is the order dated 11.05.2017, passed by the Trial Court, dismissing an application filed by the petitioner seeking recalling of the aforesaid order dated 03.11.2014.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondents filed a suit under Section 92 CPC for rendition of accounts of Tirath Kameshwar. Removal of the petitioner as *Mahant Mohtmim* was also sought. It was further prayed that a scheme for management of Tirath Kameshwar be formed in accordance with Section 92 CPC for better management and upkeep of the properties owned and possessed by Tirath Kameshwar.

Through order dated 03.11.2014 the Trial Court granted leave to the respondents to pursue their suit under Section 92 CPC. The petitioner, who was the defendant in the suit, filed an application seeking recalling of

the aforesaid order dated 03.11.2014, which was dismissed by the Trial Court on 11.05.2017. Both the orders dated 03.11.2014 and 11.05.2017 are challenged through the present petition.

Learned counsel for the petitioner submits that the respondents had filed their suit under Section 92 CPC which is not applicable as the institution involved in the respondents' suit is not a trust and that there is also no pleading by the respondents in that regard.

In view of the above objection, learned counsel for the respondents submits that he has express instructions from his clients to withdraw their suit itself with permission to file a fresh one on the same cause but not to file a suit under Section 92 CPC.

Learned counsel for the petitioner has no objection if the above prayer made on behalf of the respondents is accepted.

In view of the above, the respondents' suit is permitted to be withdrawn with liberty to the respondents to file a fresh one on the same cause but not under Section 92 CPC.

In view of the above, the present petition has been rendered infructuous and is disposed of as such.

09.04.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No