

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.2088 of 2023 (O&M)

Date of Order:12.09.2023

Subhash Chand Sharma and others

.Petitioners

Versus

Alpine Educational Society, Amritsar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Prateek Sodhi, Advocate
for the petitioners.

Mr. Puneet Sharma, Advocate
for the respondents.

ANIL KSHETARPAL, J

1. The correctness of the order passed by the trial court while dismissing the application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 to reject the plaint has been assailed by the defendants in this present revision petition.

2. The plaintiffs have filed the suit for grant of decree of permanent injunction restraining the defendants from interfering into their peaceful possession over the Alpine Public School compound, comprising of multistorey buildings of the Alpine public school, one residential house building, store rooms, Guard room, animal sheds, birds/ poultry huts tubewell rooms, gardens, one basketball ground, pool and some area under cultivation.

3. In this suit, the plaintiffs have submitted that the cause of action accrued in favour of the plaintiffs and against the defendants a few days back when the defendants threatened the plaintiffs to forcibly and

illegally dispossess the plaintiffs.

4. Before the trial court, the rejection of the plaint was sought under Order II Rule 2 CPC, however, before this court, the aforesaid ground has not been pressed.

5. The learned counsel representing the petitioner submits that he filed a combined application for the rejection of the plaint under Order II Rule 2 as well as under Order XXIII Rule 1(3) CPC.

6. This court has permitted the learned counsel to address arguments on Order XXIII Rule 1(3) CPC.

7. He contends that the subsequent suit is barred because the previous suits were withdrawn on the basis of settlement between the parties. The details of the following suits which were withdrawn are as under:-

Sr.No.	Case title and particulars	Remarks
1.	Dr. Ranbir Singh vs Ajit Singh and others Case No.42/17/CS/704/17	Statement of withdrawal dated May 3, 2018 (Annexure P/8). Order of withdrawal dated May 3, 2018 (Annexure P/9)
2.	Dr. Ranbir Singh vs Ajaypal Singh Case No.102/17	Order of withdrawal dated May 3, 2018 (Annexure P/10)
3.	Sahebzaad Singh Behniwal vs. Shri Ajit Singh and others Case No.3/17	Order of withdrawal dated May 3, 2018 (Annexure P/11). Statement of withdrawal dated May 3, 2018 (Annexure P/12).
4.	Dr. Ranbir Singh vs. Subhash Sharma and others Case No.27/2017	Order of withdrawal dated May 3, 2018 (Annexure P/13).

5.	Dr. Ranbir Singh vs. Ajit Singh and another Case No.EP 2/2017	Statement of withdrawal dated May 22, 2018 (Annexure P/14). Order of withdrawal dated May 22, 2018 (Annexure P/15)
6.	Dr. Ranbir Singh vs. Punjab Kesari Newspaper and others. Case No.20/2017	Order of withdrawal dated May 3, 2018 (Annexure P/16) Statement of withdrawal dated May 3, 2018 (Annexure P/17).
7.	Alpine Educational Society vs. M/s Veer Colonizers Builders Pvt. Ltd.	Civil Suit No.2997 of 2017 withdrawn on January 9, 2018 (Copy enclosed as Annexure P-18) CM No.17161 of 2018 seeking restoration of the said suit withdrawn on May 3, 2018 (Copy enclosed as Annexure P-19) Copy of plaint dated May 23, 2017 of the said suit is annexed hereto as Annexure P-20).

8. This court has considered the submissions of the learned counsel representing the parties.
9. Order XXIII Rule 1(3) CPC applies only to the cases where the subject matter of the previous suit is the same with that of the subsequent suit. The expression “subject matter” is not synonymous with the word property. The subject matter signifies the context of the dispute involved in the case. It is the allegation of the plaintiffs that they are running a school and utilizing the property for various purposes as has already been noticed.

10. In such circumstances, it would not be appropriate to reject the
plaint at the threshold.

11. Keeping in view the aforesaid facts and discussion, no ground
to interfere is made out.

12. Dismissed.

13. Needless to observe that the observations made by the court of
first instance or by this Court while deciding the revision petition shall not
be construed as the final expression on the merits of the case and the trial
court will independently decide the suit on the appreciation of evidence.

14. All the pending miscellaneous applications, if any, are also
disposed of.

September 12, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO