

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

CR-239-2023

Date of Decision : January 24, 2023

Rai Bahadur Multanimal Modi Charitable Trust .. Petitioner

Versus

Rishi Modi and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. M.L. Sarin, Senior Advocate, with
Mr. Vijay Sharma, Advocate, for the petitioner.

Mr. Jimmy Singla, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

Learned senior counsel for the petitioner submits that though there is a challenge to the order dated 27.09.2021 (Annexure P-2) but as the application had been filed for the review of the said order, which has been dismissed vide order dated 07.10.2022 (Annexure P-1), the main grievance of the petitioner at this stage, is qua the dismissal of the review application filed, which has been dismissed vide order dated 07.10.2022.

Learned senior counsel for the petitioner further submits that the review application was filed for revoking the leave to file the suit which was granted vide order dated 27.09.2021 on the ground that the said order has been passed by the trial Court in a casual manner without even adverting to the facts which were placed before the Court for the review of the order dated 27.09.2021.

Learned senior counsel for the petitioner further submits that the order dated 07.10.2022 (Annexure P-1) has been passed without going

through the objections raised in the reply filed to the suit and ground raised in the application seeking revoking of the order dated 27.09.2021. Learned senior counsel for the petitioner further submits that the suit was filed without disclosing certain facts that a similar suit was filed in Uttar Pradesh also wherein, leave to file the suit was prayed but the same was declined and the said order passed by the competent Court of law declining the leave to file the suit attained finality upto the Hon'ble Supreme Court of India and the present suit has been filed now in the State of Punjab without disclosing the said fact and the leave to appeal has been granted by the Court being ignorant about those facts but the impugned order has been passed, which is totally cryptic and non-speaking and does not give the reasons as to what weighed in the mind of the Court while rejecting the application dated 28.09.2021 for revoking the permission granted to file the suit under Section 92 of the CPC.

Notice of motion.

Mr. Jimmy Singla, Advocate, who is present in the Court, accepts notice on behalf of the respondents.

Learned counsel for the respondents submits that once, leave to file suit was granted vide order dated 27.09.2021, there is no question of recalling the same on the application filed by the petitioner on any ground being agitated by the petitioner as leave once granted, cannot be revoked.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, an application has been made by the petitioner for recalling/revoking the order dated 27.09.2021 vide which permission to file the suit under Section 92 of the CPC as allowed, it was duty of the Court to

decide the said application by giving due reasons so that the reasons which weighed with the Court could be known to the applicant.

Learned counsel for the respondents has conceded that there is no reason given while dismissing the application while passing the order dated 07.10.2022.

That being so, the order dated 07.10.2022 cannot sustain in the eyes of law and the said order is set aside with a direction to the trial Court to pass a fresh order in accordance with law on the application dated 12.07.2021 filed by the petitioner seeking the review/revoking of the order dated 27.09.2021.

Learned counsel for the respondents submits that the suit has been filed in July, 2021 and the same is not proceeding on a pace required under law. Hence, the trial Court be directed to decide the said application along with other pending applications as expeditiously as possible.

Keeping in view the fact that the suit filed is at preliminary stage and one and half years has already passed, the trial Court is directed that the present application as well as other applications which are pending, be decided in accordance with law within a period of two months from the next date of hearing fixed before the trial Court which is stated to be 21.02.2023.

The present civil revision petition is allowed in above terms.

January 24, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No