

**CR-4583-2017 (O&M)
and other connected case**

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2024-PHHC-077271



**114-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.CR-4583-2017 (O&M)

Kandi Friends Educational Trust and another
....Petitioners

Versus

Hardev Kaur and others
..Respondents

**2.CM-8442-CII-2024
CM-9697-CII-2024
in/and CR-384-2017 (O&M)**

Hardev Kaur
....Petitioner

Versus

Oriental Bank of Commerce and others
..Respondents

Date of decision: 29.05.2024

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. D.V.Sharma, Sr. Advocate with
Ms. Sunder Kumari, Advocate for
the petitioner in CR-4583-2017 and
respondent no.3 to 5 in CR-384-2017

Mr. Anupam Gupta, Sr. Advocate with
Mr. Sukhpal Singh and
Mr. Gautam Pathania, Advocates for the
petitioner in CR-384-2017 and
for respondent no.1 and 12 in CR-4583-2017

Mr. Subhash Ahuja, Advocate for
respondent no.2 and 8(i)

ANIL KSHETARPAL, J (Oral)

1. The maintainability of this revision petition (CR-4583-
2017) is objected to by the learned counsel representing the respondent,



however, keeping in view the fact that this revision petition was entertained in the year 2017 and has remained pending for the last 7 years, it would not be appropriate to dismiss the petition only on the ground of maintainability. Hence, the revision petition is treated as the Second Appeal against Order filed for challenging the correctness of the order passed by the First Appellate Court remanding the case back to the trial court.

2. The Oriental Bank of Commerce filed an interpleader suit no.384 of 2015 with respect to the deposits of respondent no.1 and 2 lying with it. The memo of parties of the suit reads as under:-

“1. Oriental Bank of Commerce Branch Mianpur, Tehsil and District Ropar through its Branch Manager, Principal Officer and General Attorney Sh. I.R. Sharma.

2. Oriental bank of Commerce, Extension Counter, Shivalik Public School Sector 41-D, Chandigarh

Plaintiffs

Versus

1.Kandi Friends Educational Trust, through its Chairperson. House no. 26, Phase -XI, Mohali.

2.Institute of Engineering and Technology through its Chairperson Village Bhaddal, Tehsil and District Ropar.

3Mrs. Kulwinder Gurcharan Singh, Chairperson R/o 1347, Sector 34-C, Chandigarh.

4. Mrs. Surinder Kaur, Vice Chairperson W/o Sh. Jaspal Singh, R/o House no. 802, Phase 3 B1, Mohali.

5. Mr. Jaspal Singh R/o House no. 802, Phase 3B1, Mohali.

6.Mr. Farmesh Singh R/o House no. 1650,Phase-V, Mohali.

7. Miss Japneet Kaur D/o late Sh: Gurcharan Singh, R/o House no.1347, Sector 34-C, Chandigarh.



8. Mr. Satwinder Singh S/o Sh. Farmesh Singh R/o House no. 1650, Phase V, Mohali.

9. Mr. Davinder Singh R/o House no. 26, Phase XI, Mohali

10Mr. Bir Davinder Singh, MLA, Kharara

11Mr. Mandeep Singh nominee and S/o Sh. B.S. Randhawa R/o House no. 148, Sector 70, Mohali.

12.Mrs. Hardev Kaur W/o Sh. B.S. Randhawa r/o House no. 148, Sector 70, Mohali.

.... Defendants”

3. During the pendency of the suit, defendants no.1 and 2 were transposed as plaintiff no.3 and 4. It has been brought to the notice of the Court that the original defendant no.1 is a Society and not a Trust and the aforesaid fact is disputed by the learned senior counsel representing the respondent.

4. Learned senior counsel representing the respondent has submitted that Sh.Tejinder Singh has no locus standi to file the revision petition on behalf of ‘Kandi Friends Educational Trust’, an institution of Engineering and Technology. However, this question is left open to be decided by the court of competent jurisdiction.

5. For the purpose of decision of this Second Appeal, the only issue that requires adjudication is, “whether the suit can be disposed of on account of settlement between defendant no.3 and 5, without involvement of the other parties including the plaintiffs as well as defendants?” The First Appellate Court has held that under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (hereinafter referred to as ‘CPC’), the suit could only be disposed if all the parties enter into a



settlement. In this case, there is no dispute that the settlement was arrived at between defendant no.3 and 5 only. Though the learned counsel representing the appellant contends that the defendant no.3 and 5 were the only two parties, involved in the entire dispute, however, this fact is strongly disputed by the learned counsel representing the respondent. At this stage, the aforesaid issue is not required to be adjudicated. In the present case, there were 12 defendants and 2 plaintiffs, hence, it is clear that the suit could not have been disposed of in accordance with law, without the consent of the remaining parties. A huge procedural error has been made while disposing of the suit. Hence, the appeal is dismissed.

CM-8442-CII-2024 and CM-9697-CII-2024 in CR-384-2017

- 6. In view of the disposal of the Second Appeal against Order, no further order is required to be passed on the request received from the Presiding Judge of the trial court.
- 7. CMs stand disposed of.
- 8. All the pending miscellaneous applications, if any, are also disposed of.

29.05.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)
JUDGE**