

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

122

CR-832-2024 (O&amp;M)

Date of decision:30.04.2024

Gram Panchayat, Bibipur

... Petitioner

Vs.

Abdul Aleem &amp; others

... Respondents

**CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Anas Ahmed, Advocate for the petitioner.

...

**SUKHVINDER KAUR, J.**

1. The instant revision petition has been filed for setting aside the order dated 18.01.2024 (Annexure P-1) passed by the Additional Civil Judge (Sr. Division), Nuh, vide which the application filed by the petitioner under Order 7 Rule 11 CPC read with Section 151 CPC was dismissed.

2. The relevant facts for adjudication of the present revision petition are that the respondents/plaintiffs filed a suit for declaration with consequential relief of permanent injunction against the revision petitioner/Gram Panchayat & others. The revision petitioner moved an application under Order 7 Rule 11 CPC read with Section 151 CPC for dismissing the said suit for want of notice under Section 205 of the Haryana Panchayati Raj Act, 1994 (hereinafter to be referred to as 'the 1994 Act'). The said application was dismissed by the trial Court vide the impugned order dated 18.01.2024 (Annexure P-1). Hence, the present revision petition has been filed at the hands of the revision petitioner/defendant.

4. Learned counsel for the revision petitioner has contended that the findings of the trial Court are contrary to Section 205 of the 1994 Act as well as various judgments passed by this Court wherein the application under Order 7 Rule 11 CPC was allowed by holding that suit against Gram Panchayat is not maintainable in the absence of notice under Section 205 of the 1994 Act and has contended that the impugned order dated 18.01.2024 is not sustainable and is liable to be set aside.

5. I have heard learned counsel for the petitioner at length and have gone through the records.

6. Section 204 of the 1994 Act reads as under:

*“204. Bar of action - (1) No suit or other legal proceedings in a civil or criminal Court shall lie against any Panch, Sarpanch, Member, Chairman, Vice-Chairman, President and Vice-President, as the case may be in respect of any act done in good faith under this Act.”*

7. Thus, perusal of the aforesaid Section 204 reveals that no suit or other legal proceedings in a civil or criminal Court shall lie against any Panch, Sarpanch, Member, Chairman, Vice-Chairman, President and Vice-President, as the case may be in respect of any act done in good faith under this Act. The trial Court has rightly held that whether the act done which is subject matter of the present suit falls within the ambit of 'good faith' in view of provision of Section 204 of the 1994 Act, is a matter of evidence and can be determined only after appreciating the evidence that would be led by the respective party at the relevant stage of the trial. So at this stage, plaint of the plaintiff cannot be straightway rejected on this ground.

8. It has also been alleged that there has been non-compliance of

Section 205 of the 1994 Act. The Trial Court in this context has rightly relied upon **Surender Kumar Vs. Gram Panchayat, Bariawas & others** in **Civil Revision No.5301 of 2013**, decided on 30.09.2023 wherein it has been held by this Court that when the suit is filed against the Gram Panchayat and not against its officers or official, then there is no need to serve a notice under Section 205 of the 1994 Act. In para 11 of the said judgment, it has been held that “The perusal of the [Section 205](#) of 1994 Act reveals that its marginal heading starts with "suits against Gram Panchayat, Panchayat Samiti or Zila Parishad or any of its officers". The plain reading of this Section makes it clear that there it does not contain any reference of the notice to be delivered before a suit or legal proceedings is instituted against Gram Panchayat. It says "no suit or legal proceedings can be instituted against any officer or official of a Gram Panchayat, Panchayat Samiti or Zila Parishad or any of their officers or officials, or any person acting under their direction for anything done under this Act". I fail to see how marginal heading can provide a key to the construction of the provision itself. The persons against whom a suit cannot be instituted without serving a notice are specified as officers or officials in the provisions. Gram Panchayat is not mentioned in this list. It only refers to the officers and officials and it is manifest that a notice need not be served on Gram Panchayat before the institution of a suit or legal proceedings against it.” So Section 205 of 1994 Act nowhere indicates nor any inference can be drawn that upon Gram Panchayat notice is required to be served before filing a suit or proceeding against Gram Panchayat. The trial Court has rightly held as defendants No.1 & 2 are Gram Panchayats, so plaintiffs are not required to serve notice

under Section 205 of the 1994 Act to defendants No.1 and 2. But as defendants No.3 & 4 are officers of the Gram Panchayat, so in view of the provisions of Section 205 of the 1994 Act, it was mandatory to issue notice upon defendants No.3 and 4 prior to filing of the present suit. So suit against defendants No.3 & 4 is not maintainable for want of notice under Section 205 of the 1994 Act.

9. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

10. Pending application(s), if any, shall also stand disposed of.

( SUKHVINDER KAUR )  
JUDGE

**30.04.2024**

*harjeet*

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|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable?        | Yes/No |