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

CR-2073-2023 (O&M)

Date of decision: 05.08.2024

Managing Committee R.D. Khosla DAV Model Senior Secondary School,
through its Chairman Arvind Khosla

...Petitioner

Versus

Managing Committee R.D. Khosla DAV Model School, through Sudesh
Kumar Khosla alleged Chairman and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sunil Chadha, Sr. Advocate with
Mr. Akshay Chadha, Advocate and
Mr. Tara Dutt, Advocate for the petitioner.

Mr. Sandeep Jain, Advocate and
Mr. Davinder Kumar, Advocate and
Mr. Sachin Jain, Advocate for the respondents.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 21.02.2023 (Annexure P-6) passed by the Court of Civil Judge (Junior Division), Batala, vide which additional issues have been framed on an application filed by the plaintiff.

2. Learned Senior Counsel for the petitioner has submitted that the petitioner is aggrieved with framing of issue Nos.9, 10, 11, 23, 24 and is



also aggrieved with the placing of onus on the defendants with respect to issue Nos.4 and 17. The said issues are reproduced hereinbelow:-

“4) Whether there was any founding member in the plaintiff society as per rule and regulations of the plaintiff society and if so whether the plaintiff no. 2 to 4 are its founding members?

OPD

9) Whether the defendant no. 2, admitted the claim of the plaintiffs on the basis of written compromise dated 16.11.15 if so its effect ? OPP

10) Whether the defendants no.3 &12, admitted the claim of the plaintiffs on the basis of written compromise dated 17.9.16 as alleged, if so, its effect OPP

11) Whether the defendants no. 8 &9, admitted the claim of the plaintiffs on the basis of written compromise dated 19.6.17 as alleged, if so, its effect?OPP

(17) Whether the suit of the plaintiffs is hopelessly time barred as alleged? OPD

23) Whether Sudershan Aggarwal plaintiff was validly expelled from the plaintiff society on 16.05.1995 , as alleged ? OPD-1

24) Whether Sudesh Khosla plaintiff was validly expelled from the plaintiff society on 16.5.1995, as alleged? OPD-I”

3. During the course of arguments and after detailed submissions, learned Senior Counsel for the petitioner and counsel for contesting respondents have jointly submitted that as far as issue No.4 is concerned, onus be put on the plaintiff as same has wrongly been put on the defendants and issue Nos.9, 10, 11 do not arise from the pleadings thus, the same be deleted and as far as issue Nos.17, 23, 24 are concerned, they have been rightly framed and thus, the said issues be retained as they are.



4. Keeping in view the abovesaid facts and circumstances and joint statements made by learned Senior Counsel for the petitioner and learned counsel for the respondents, the present revision petition is disposed of with following observations:-

- a) Onus of issue No.4 which is mentioned as “OPD” now be read as “OPP”.
- b) Issue Nos.9, 10, 11 stand deleted.
- c) Issue Nos.17, 23, 24 have been correctly framed and would be retained.
- d) It would be open to the trial Court to renumber the issues on the next date of hearing since three issues have been ordered to be deleted and then proceed with the trial in accordance with law.
- e) It is made clear that the present order would not come in the way of either of the parties who wish to move an application by stating that the matter has been compromised/settled and in case of any such application having been filed, the Court would proceed in accordance with Order 23 Rule 3 CPC.

5. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

05.08.2024
Pawan

(VIKAS BAHL)
JUDGE

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