



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

RSA-3062-2023 (O&M)
Date of Decision: -19.07.2024

MAMTA @ MUNNI

. . . . APPELLANT

Vs.

PREM CHAND AND OTHERS

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present:- Mr. J.P. Sharma, Advocate,
for the appellant.

DEEPAK GUPTA, J.

Civil Suit No.86 of 2013 filed by the plaintiffs Prem Chand and Devkaran (*respondents No.1 & 2 herein*) against Development Executing Officer, President and Advisor of the Tanners Small Enterprises Supply and Marketing Cooperative Industrial Society PCIS Ltd. Mahendergarh [*hereinafter referred to as 'the Society'*] and Assistant Registrar Societies, Mahendergarh (*now appellant and respondents No.3 to 5, respectively*) was dismissed by the trial Court of Id. Civil Judge (Jr. Division), Mahendergarh vide judgment dated 04.03.2017, being not maintainable and at the same time by holding that Civil Court did not have the jurisdiction in the matter, the plaint was directed to be returned.

2. Said judgment dated 04.03.2017 was challenged by the plaintiffs in appeal. First Appellate Court of Additional District Judge, Narnaul took the

view that once it was found that Civil Court did not have the jurisdiction, the observation of the trial Court so as to dismiss the suit being not maintainable was not sustainable and as such, the same was set aside but upheld the finding of the trial Court so as to return the plaint for presentation before the competent authority. Appeal was accordingly partly allowed vide judgment dated 25.08.2023.

3. Surprisingly, it is not the plaintiffs, who have approached this Court against the judgment of the First Appellate Court. Rather, it is defendant No.3 i.e. Development Executing Officer of the Society, which has assailed the impugned order.

4. Ld. counsel contends that direction to return the plaint has been wrongly given and that the suit was liable to be dismissed.

5. After hearing ld. counsel for the appellant, this Court does not find any merit in the appeal. As has been observed by the trial Court and also found by the First Appellate Court, the dispute was regarding the membership of the plaintiffs and respondent No.1 in the Society, besides the dispute was also raised regarding managing the affairs of the Society in respect of its immoveable property. It was found that the matter touched upon the Management and Internal Working of the Society. Reference was made to Section 102 read with Section 128 of the Haryana Cooperative Societies Act, 1984, so as to hold that the matter involved in the suit was liable to be referred to the arbitration of the Registrar for decision and that Civil Court did not have jurisdiction in this matter.

6. In view of the aforesaid finding returned by the ld. First Appellate Court that Civil Court did not have the jurisdiction in view of Section 102 read with Section 128 of the Haryana Cooperative Societies Act, 1984, ld. First Appellate Court rightly ordered to return the plaint; and rightly set aside the obser-

vation made by the trial Court so as to dismiss the suit on ground of maintain-
ability.

7. Dismissed.

19.07.2024

Vivek/sarita

(DEEPAK GUPTA)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>No</i>