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

(110)

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Date of decision: - 27.02.2025

Jiva Ram Goyal

....Petitioner

Versus

Ramesh Kumar Bansal and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Achin Gupta, Advocate, and
Mr. Karan Bansal, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 22.10.2024 (Annexure P-5) passed by the Civil Judge (Senior Division), Bathinda whereby the application filed by the petitioner/defendant No.2 under Order VII Rule 11 CPC for rejection of the plaint has been dismissed.

2. Learned counsel for the petitioner has submitted that in the present case, the prayers made in the suit are covered under Section 92 of the Code of Civil Procedure and thus, the suit could have only been instituted either by the Advocate General or two or more persons having an interest in the trust and after having obtained the leave of the Court. It is further submitted that the present suit has neither been instituted by the Advocate General nor the leave of the court has been taken. It is argued



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that the impugned order dated 22.10.2024 vide which the application filed by the petitioner under Order 7 Rule 11 CPC on the above said ground, has been dismissed is illegal and deserves to be set aside.

3. A perusal of the order dated 22.10.2024 would show that the trial Court had observed that in the present case, the plaintiffs have challenged the election of defendant No.2 to the post of President as illegal and have further sought mandatory injunction for the issuance of a mandate to defendant No.1/Trust to hold free, fair, impartial and unbiased fresh election and a prayer for permanent injunction has also been made. It had further been observed that the relief sought by the plaintiff does not fall under any of the clause of Section 92 of the CPC and therefore, the suit is not a suit of special nature as envisaged in Section 92 of the CPC and the prior permission of the court is not required. Various prayers have been made in the suit which are reproduced herein below: -

“A) SUIT FOR DECLARATION TO THE EFFECT THAT THE ELECTION OF DEFENDANT NO.2 FOR THE POST OF PRESIDENT ALLEGEDLY CONDUCTED AND DECLARED ORALLY WITHOUT OFFICIAL DECALRATION BY DEFENDANT NO.3 AND 4 IS ILLEGAL, NULL, VOID, ULTRAVIROUS, RESULT OF VARIOUS IRREGULARITIES MALPRACTICE, CORRUPT PRACTICE, ARBITRARY, AGAINST THE PRINCIPAL OF DEMOCRATIC-VALUES, THAT TOO WITHOUT DECIDING THE OBJECTIONS AND REPRESENTATION SENT TO DEFENDANTS WHICH IS UNLAWFULLY DECLARED ON 04-09-2024 WITHOUT CONDUCTING ELECTIONS BY DEFENDANT NO.3 AND 4 WHICH ARE TO BE CONDUCTED, HELD ON 15-09-2024 THUS LIABLE TO BE SET-ASIDED, QUASHED AND THE FRESH ELECTIONS FOR THE POST OF PRESIDENT MAY



KINDLY CONSEQUENTLY ORDERED TO BE CONDUCTED IN ACCORDANCE WITH THE LAWFUL DEMOCRATIC VALUES PREVAILING IN INDIA WITH FAIRNESS, FREELY, TRANSPARENCY, WITHOUT BIAS WITHOUT ANY UNDUE INFLUENCE BY ACTUALLY CASTING OF VOTE BY WAY OF SECRET BALLOT;

AND

- B) SUIT FOR MANDATORY INJUNCTION FOR ISSUANCE OF MANDATE/DIRECTION/ORDERS TO THE DEFENDANT NOS.1 TRUST TO HOLD THE FREE, FAIR, IMPARTIAL, WITHOUT BIAS, WITHOUT INFLUENCE, FRESH ELECTION OF ENTIRE MANAGING COMMITTEE CONSISTING OF PRESIDENT, VICE PRESIDENT, SECRETARY, JOINT SECRETARY, CASHIER AND 4 EXECUTIVE MEMBERS BY ISSUING NEW SCHEDULE FOR FRESH ELECTIONS AS PER CLAUSE NO.11 OF THE MEMORANDUM OF TRUST MANDIR SHRI RAM CHANDRA JI REGISTERED IN ACCORDANCE WITH PREVAILING DEMOCRATIC VALUES, AS PER THE CONSTITUTION OF DEFENDANT NO.1 TRUST AS WELL AS DEMOCRATIC SET-UP OF THE CONSTITUTION OF INDIA BY REMOVING BOTH DEFENDANT NO.3 AND 4 FROM THE OFFICE OF RETURNING OFFICER AND OBSERVER BY APPOINTING NEW/FRESH RETURNING OFFICER/OBSERVER IN THEIR PLACE THROUGH OR UNDER THE SUPERVISION OF SENIOR PCS/IAS RANK OFFICER BY ISSUING LEGAL VALID LIST OF LEGIBLE VOTER OF DEFENDANT TRUST AND FURTHER DIRECTING THE DEFENDANT TO KEEP INTACT THE ENTIRE RECORD OF ALLEGED ELECTION PROCESS SUBJECT ADOPTED BY DEFENDANTS FOR EFFECTIVE DECISION OF THE PRESENT SUIT BUT MAY BE ORDERED TO BE KEPT UNDER PROPER SEAL AND SIGNATURE SUBJECT TO BE OPENED AND SCRUTINIZED AS TO THE TRANSPARENCY AND*



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FAIRNESS OF ELECTION BY LIGIBLE VOTERS, ELECTION BY ISSUING THE LIST OF VALID MEMBERS/VOTERS, AND ITS PRODUCTION BEFORE THIS HON'BLE COURT AND ITS PERUSAL MAY BE ORDER TO BE OPENED SCRUTINIZED AS PER THE DIRECTION OF THIS HON'BLE COURT THAT TOO SUBJECT TO DECISION OF THE PRESENT SUIT;

AND

- C) SUIT FOR PERMANENT INJUNCTION RESTRAINING THE DEFENDANTS NO.2 FROM RESUMING THE OFFICE OF PRESIDENT OF DEFENDANT NO.1 TRUST ON THE BASIS OF ALLEGED ORAL SUO-MOTTO DECLARATION OF ELECTED PRESIDENT OF DEFENDANT NO.1 TRUST, SUO- MOTO ALLEGEDLY DECLARED BY DEFENDANT NO.3 AND 4 ORALLY AS A BACK DOOR ENTRY BY CONGRATULATING DEFENDANT NO.2 GARLANDING HIM, DISTRIBUTION OF SWEETS ON THE ALLEGED EVE OF MAKING IT PUBLIC ON SOCIAL MEDIA BY WAY OF WHATS-APP, PHOTO-GRAPHS, FACE-BOOK AND IN NEWSPAPER, UNLAWFULLY, ILLEGALLY, IN VIOLATION OF DEMOCRATIC VALUES, UNILATERELY, ARBITRARILY BY ADOPTING PROCEDURE UN-KNOWN TO LAW WITHOUT HOLDING ANY ELECTION WHICH ARE TO BE CONDUCTED, HOLDED AND DECLARED ON 15-09-2024 AS PER THE ELECTION PROCESS ISSUED BY DEFENDANT NO.3 AND 4 ON WHATS-APP IN ACCORDANCE CONSTITUTION OF DEFENDANT NO.1.*

AND

- D). SUIT FOR PERMANENT INJUNCTION FURTHER RESTRAINING THE DEFENDANT NO.1 AND 2 FROM OPERATING BY/AND WITHDRAWING ANY AMOUNT OUT OF THE ACCOUNT NO.5856000100001615 AND NO.65048406311 OF DEFENDANT NO.1 TRUST MAINTAINED WITH PUNJAB NATIONAL BANK BRANCH ZILA PARISHAD BATHINDA, STATE BANK OF INDIA*



BRANCH (KATIA SARASWATI PLAZA) AMRIK SINGH ROAD BATHINDA AND ENCASHING ANY FDR WHICH ARE STANDING IN THE NAME OF DEFENDANT NO.1 TRUST AND FURTHER RESTRAINING THE DEFENDANT NO.1 AND 2 FROM OPENING ANY FRESH/NEW BANK ACCOUNT IN THE NAME OF DEFENDANT NO.1 ON THE BASIS OF ALLEGED HOLDING OF OFFICE OF PRESIDENT ALLEGEDLY DECLARED BY DEFENDANT NO.3 AND WITHOUT ELECTION WHICH ARE YET TO BE CONDUCTED ON 15-09-2024;

AND

- E) FURTHER FOR PERMANENT INJUNCTION RESTRAINING THE DEFENDANT NO.1 AND 2 FROM TRANSFERRING ANY OF THE MOVABLE, IMMOVABLE PROPERTIES OF DEFENDANT NO.1 TRUST BY WAY OF SALE, MORTGAGE, EXCHANGE, GIFT, LEASE, LICENSE, GRANT, DONATION, COLLUSIVE DECREE ETC. ETC.ANYWISE/IN ANY MANNER WITHOUT THE PRIOR APPROVAL OF TWO-THIRD MAJORITY OF GENERAL HOUSE THAT TOO IN WRITING FOR THE GENIUNE, TRUTHFUL, LEGAL, NECESSITY-NEED OF DEFENDANT NO.1 TRUST AND FURTHER RESTRAINING THEM FROM CREATING ANY CHARGE, LIEN, ENCUMBRANCE OVER THE SAID MOVABLE AND IMMOVABLE PROPERTY ON THE BASIS OF ALLEGEDLY HOLDING OFFICE OF PRESIDENT OF DEFENDANT NO.1 TRUST ILLEGALLY, FORCIBLY, IN ANY MANNER AND ANYWISE BEING DEFENDANT NO.1 AND 2 HAVE NO AUTHORITY, COMPETENCY AND JURISDICTION TO DO, COMMIT, PERFORM ANY SUCH ACT THING, DEED ETC. ETC;*

AND

- F) SUIT FOR PERMANENT INJUNCTION RESTRAINING THE DEFENDANT NO.1 AND 2 FROM SPENDING ANY AMOUNT OR SUM OUT OF FUNDS, SAVINGS AND DONATIONS OF DEFENDANT NO.1 TRUST FOR ANY*



OTHER PURPOSES EXCEPT THE AIMS AND OBJECT OF THE TRUST SET FORTH IN ITS CONSTITUTION AT CLAUSE 4 (a) TO (f). ILLEGALLY, FORCIBLY, ARBITRARILY, UNILATERALLY, ANYWISE IN ANY MANNER IN VIOLATION OF THE CONSTITUTION OF THE DEFENDANT NO.1 TRUST

XXX XXX XXX”

4. Section 92(1) of the CPC is reproduced as under: -

“92. Public charities.

(1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the [leave of the Court], may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree:-

- (a) removing any trustee;*
- (b) appointing a new trustee;*
- (c) vesting any property in a trustee;*
- [(cc) directing a trustee who has been removed or a person who has ceased to be a trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property];*
- (d) directing accounts and inquiries;*
- (e) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;*
- (f) authorizing the whole or any part of the trust property to be let, sold, mortgaged or exchanged;*
- (g) settling a scheme; or*



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(h) *granting such further or other relief as the nature of the case may require.”*

5. Learned counsel for the petitioner has submitted that the prayer (D) with respect to permanent injunction for restraining the defendants No.1 and 2 from operating by/and withdrawing any amount out of the account No.5856000100001615 and No.65048406311 of defendant No.1/Trust, would be covered under Clause (d) of Section 92 (1) of the CPC. Learned counsel for the petitioner has not been able to show that the other prayers are covered under any of the sub-clauses of Section 92(1) of the CPC.

6. It is a matter of settled law that while considering an application under Order 7 Rule 11 CPC for rejection of the suit, the entire plaint and all the reliefs sought are to be considered together and in case some of the reliefs can be granted by the Court, then, the plaint as a whole cannot be rejected and the plaint qua some of the defendants also cannot be rejected. In this regard, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of “**Sejal Glass Ltd. V. Navilan Merchants Pvt. Ltd.**”, **reported as (2018) 11 SCC 780**. The relevant portion of the said judgment is reproduced hereinnbelow:-

*“2. An application dated 8-7-2016 was filed by the Defendant(s) under Order VII Rule 11 stating that the plaint disclosed no cause of action. **By the impugned judgment dated 7-9-2016, it has been held that the plaint is to be bifurcated - it discloses no cause of action against the Directors i.e. Defendant Nos. 2 to 4 but the suit is to continue against the Defendant No.1-***



Company. *It has further been held that the defendant, in any case, is barred from filing a written statement in the suit as he has taken inordinate time to do so.*

3. *In our view, the impugned judgment is wrong on principle.”*

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8. *We are afraid that this is a misreading of the Madras High Court judgment. It was only on the peculiar facts of that case that want of Section 80 CPC against one defendant led to the rejection of the plaint as a whole, as no cause of action would remain against the other defendants. This cannot elevate itself into a rule of law, that once a part of a plaint cannot proceed, the other part also cannot proceed, and the plaint as a whole must be rejected under Order VII Rule 11. **In all such cases, if the plaint survives against certain defendants and/or properties, Order VII Rule 11 will have no application at all, and the suit as a whole must then proceed to trial.***

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10. *In contrast to the above provisions, which apply on a demurrer, the provisions of Order XIV Rule 2, read as follows:*

“2. Court to pronounce judgment on all issues.-(1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to-

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”



The Court is vested with a discretion under this order to deal with an issue of law, which it may try as a preliminary issue if it relates to the jurisdiction of the Court, or is a bar to the suit created for the time being in force. Obviously, this provision would apply after issues are struck i.e. after a written statement is filed. This provision again cannot come to the rescue of learned counsel for the respondent.

11. This being the case, we set aside the impugned judgment and grant the defendants in the suit a period of eight weeks from today within which to file their written statement after which the suit will proceed to be tried.”

7. That following the judgment in the case of **Sejal Glass Ltd.** (*supra*), the Hon'ble Supreme Court in **Madhav Prasad Aggarwal and another Vs. Axis Bank Ltd. and another**, reported as (2019) 7 SCC 158, had held as under:-

“10. We do not deem it necessary to elaborate on all other arguments as we are inclined to accept the objection of the appellant(s) that the relief of rejection of plaint in exercise of powers under Order 7 Rule 11(d) CPC cannot be pursued only in respect of one of the defendant(s). In other words, the plaint has to be rejected as a whole or not at all, in exercise of power under Order 7 Rule 11(d) CPC. Indeed, the learned Single Judge rejected this objection raised by the appellant(s) by relying on the decision of the Division Bench of the same High Court. However, we find that the decision of this Court in Sejal Glass Ltd. is directly on the point. In that case, an application was filed by the defendant(s) under Order 7 Rule 11(d) CPC stating that the plaint disclosed no cause of action. The civil court held that the plaint is to be bifurcated as it did not disclose any cause of action against the Director's Defendant(s) 2 to 4 therein. On that basis. the High Court had opined that the suit can continue against Defendant I company alone. The question considered by this Court was whether such a course is open to the civil court in exercise of



powers under Order 7 Rule 11(d) CPC. The Court answered the said question in the negative by adverting to several decisions on the point which had consistently held that the plaint can either be rejected as a whole or not at all. The Court held that it is not permissible to reject plaint qua any particular portion of a plaint including against some of the defendant(s) and continue the same against the others. In no uncertain terms the Court has held that if the plaint survives against certain defendant(s) and/or properties. Order 7 Rule 11(d) CPC will have no application at all, and the suit as a whole must then proceed to trial.

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14. *A fortiori, these appeals must succeed on the sole ground that the principal relief claimed in the notice of motion filed by Respondent 1 to reject the plaint only qua the said respondent and which commended to the High Court, is replete with jurisdictional error. Such a relief "cannot be entertained" in exercise of power under Order 7 Rule 11(d) CPC. That power is limited to rejection of the plaint as a whole or not at all."*

8. In the present case, it would be relevant to mention that only defendant No.2, out of seven defendants, has filed the present revision petition and the application for rejection of the plaint. Moreover, learned counsel for the petitioner has not raised any argument to the effect that the prayers/relief sought in the suit other than prayer (D) are covered under the provisions of Section 92(1) of CPC. Thus, even assuming the prayer (D) for permanent injunction, as highlighted by the learned counsel for the petitioner, falls within sub-clause (d) of Section 92(1) of CPC, although the said aspect is also a debatable issue, then also, as per the law laid down in the abovesaid judgments, the suit as a whole cannot be rejected because the same would survive qua the remaining reliefs. Partial



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rejection of the plaint under Order 7 Rule 11 CPC is not permissible. It is also relevant to mention that under Section 92(1)(d) of CPC, the decree which is envisaged is for directing accounts and inquiries of the trust and *prima facie* a prayer for permanent injunction restraining the defendants No.1 and 2 from operating or withdrawing any amount from the accounts would not come within the meaning of “directing accounts and inquiries”. Thus, the trial Court has rightly dismissed the application under Order 7 Rule 11 CPC for rejection of the plaint.

9. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the impugned order does not call for any interference and accordingly, the same is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

February 27, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes