



**CR-1797-2017 (O&M) and
CR-1133-2018**

-1-

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

(239)

1. CR-1797-2017 (O&M)

Raj Bahadur and othersPetitioners

Versus

Pawan Kumar and othersRespondents

2. CR-1133-2018

Gopal Krishan KundiPetitioner

Versus

Raj Bahadur and othersRespondents

Date of decision: - 13.01.2026

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

**Present:- Mr. Malkeet Singh, Advocate
for the petitioners in CR-1797-2017 and
for respondents No.1 to 12.**

**Ms. Gursharan Kaur Mann, Senior Advocate, with
Mr. Anmol Jeevan S. Gill, Advocate, and
Ms. Shruti, Advocate
for the petitioner in CR-1133-2018 and
for respondents No.1 and 2 in CR-1797-2017.**

VIKAS BAHL, J. (ORAL)

1. Present order would dispose of two revision petitions arising from the same suit. The first petition i.e. Civil Revision No.1797 of 2017 has been filed by 12 petitioners, who are the defendants in the suit, in which challenge is to the order dated 17.11.2016 (Annexure P-3) passed



**CR-1797-2017 (O&M) and
CR-1133-2018**

-2-

by the Civil Judge (Junior Division), Phillaur, District Jalandhar whereby the application under Order 1 Rule 10 CPC for impleading respondent No.2 (Gopal Krishan Kundi) as one of the plaintiffs in the suit has been allowed. The second petition i.e. Civil Revision No.1133 of 2018 has been filed by Gopal Krishan Kundi (added plaintiff No.2) in which challenge is to the order dated 27.11.2017 (Annexure P-3) passed by the Civil Judge (Junior Division), Phillaur, vide which the application filed by the petitioner-plaintiff No.2 under Section 92 CPC read with Section 151 CPC (Annexure P-1) to obtain leave of the Court has been dismissed.

CR-1797-2017

2. Brief facts of the present case are that Pawan Kumar-respondent No.1 had filed a suit against 13 defendants with the following prayers: -

“It is therefore respectfully prayed that suit for Permanent Injunction restraining the defendants or their associates, agents, attorneys etc. from installing any Sant on the Dera of Sant Sadhu Ram Jit, Mohalla Sant Nagar, Nurmahal controlled by Shri Mansa Ram Mission Charitable Trust, Mohalla Sant Nagar, Nurmahal, without consent of all the Trustee and the followers/devotees; illegally and forcibly or through any other manner forever and rather appointing only a Sewadar;

OR

Suit for Mandatory Injunction directing the defendants to submit accounts of Shri Mansa Ram Mission Charitable Trust, Mohalla Sant Nagar, Nurmahal, Tehsil Phillaur and further Mandatory injunction for appointing any Receiver for smooth conduct of the affairs of the trust; may kindly be decreed in favour of the plaintiff and against the defendants with costs in the interest of justice.

AND



**CR-1797-2017 (O&M) and
CR-1133-2018**

-3-

Any other relief to which the plaintiff is found to be entitled in the circumstances of the case and which this Hon'ble Court may deem fit and proper may also be granted to the plaintiff"

3. It was the case of the plaintiff No.1 that there was a Dera known as Sant Sadhu Ram Ji, Mohalla Sant Nagar, Nurmahal, which was controlled by Shri Mansa Ram Mission Charitable Trust, Mohalla Sant Nagar, Nurmahal, Tehsil Phillaur and the said Dera was existing at Mohalla Sant Nagar Nurmahal since time immemorial. It was further the case of the plaintiff No.1 that Sant Sadhu Ram Ji was the Chela of Sant Mansa Ram Ji and the said Dera had a lot of properties which were earlier in the name of Sant Mansa Ram Ji and after his demise, the said properties were inherited by Sant Sadhu Ram Ji and the said Sant Sadhu Ram Ji had left his CHOLA (died) on 08.09.1980 and thereafter the Chela Sant Daya Ram Ji was appointed, who also left the CHOLA (died) on 06.12.1999. Further details of subsequent Chela and their date of death had been mentioned in the plaint. In para 3 of the plaint, it was stated that the plaintiff No.1-Pawan Kumar was one of the trustees of Shri Mansa Ram Mission Charitable Trust, Mohalla Sant Nagar, Nurmahal, Tehsil Phillaur and so were the defendants No.1 to 6. It was specifically averred that Gopal Krishan Kundi was the Joint Secretary of the trust. It was further the case of the plaintiff No.1 that defendants No.1 to 6 were not managing the trust/Dera and its properties properly and they were not keeping proper accounts of the trust.

4. The written statement dated 28.07.2016 was filed in the said case. When the said case was at the initial stage, an application dated



**CR-1797-2017 (O&M) and
CR-1133-2018**

-4-

06.09.2016 under Order 1 Rule 10 CPC was filed by applicant Gopal Krishan Kundi to be impleaded as plaintiff no.2 in the suit. In the said application, it was stated that the applicant was the Joint Secretary of the Trust i.e. Shri Mansa Ram Mission Charitable Trust and was a devotee of the Dera Sant Sadhu Ram and that defendants No.1 to 6 were trustees and that all the defendants had started doing wrong activities and had started mismanaging the Dera. It was further stated that the applicant who also had the same grievances as the plaintiff No.1 was a necessary party to avoid multiplicity of litigation and thus a prayer was made for his impleadment. The said application was opposed by the defendants but was not opposed by plaintiff No.1 which fact is apparent from the order dated 17.11.2016. The trial Court vide order dated 17.11.2016 allowed the said application after observing that the present suit was at the initial stage and that since the applicant was also a devotee of Dera Sant Sadhu Ram Ji as well as a member of the trust, thus, he should be impleaded as party (plaintiff No.2). It is the said order dated 17.11.2016 of impleadment that has been challenged by the defendants by filing Civil Revision No.1797 of 2017.

5. It is argued on behalf of the petitioners in CR-1797-2017 that initially the suit was filed only by one person and thereafter, the second person has been made a party, which is impermissible. It is submitted that plaintiff No.2 is not a necessary party and thus, could not be ordered to be impleaded. The said arguments have been opposed by learned senior counsel appearing for respondents No.1 and 2 (plaintiff No.1 and added



**CR-1797-2017 (O&M) and
CR-1133-2018**

-5-

plaintiff No.2.)

6. This Court has heard learned counsel for the petitioners as well as learned senior counsel for respondents No.1 and 2 and has perused the paper-book and is of the opinion that the order dated 17.11.2016 passed by the trial Court vide which Gopal Krishan Kundi has been ordered to be impleaded as plaintiff No.2 is in accordance with law and deserves to be upheld for the reasons stated hereinafter.

7. It is a matter of settled law that plaintiff is *dominus litis* and it is primarily the right of the plaintiff to implead all parties which as per him are necessary parties. It is not disputed before this Court that the plaintiff No.1 has not opposed the impleadment application filed by applicant- Gopal Krishan Kundi to be impleaded as plaintiff No.2. It has further been not disputed that the suit was at the initial stage when the application for impleadment was filed and the said fact is apparent from the fact that the written statement in the present case is dated 28.07.2016, whereas, the application under Order 1 Rule 10 is dated 06.09.2016. Even the observation made in the impugned order dated 17.11.2016 to the effect that the suit was at the initial stage has not been disputed before this Court. A perusal of the original plaint would show that plaintiff No.1/Pawan Kumar is stated to be one of the trustees of Shri Mansa Ram Mission Charitable Trust. It has further been stated in the original plaint itself that Gopal Krishan Kundi is the Joint Secretary of the trust. The grievance of the plaintiff as stated in the plaint is similar to the grievances raised by applicant Gopal Krishan Kundi, who is the Joint Secretary of



CR-1797-2017 (O&M) and
CR-1133-2018

-6-

the trust, as both are alleging mismanagement of the trust/Dera and thus, the impleadment of plaintiff No.2 as party who has the same grievances and cause of action against the defendants, would help in avoiding multiplicity of litigation and would also help in fully and finally adjudicating the case. The challenge to the impugned order impleading the said applicant as plaintiff no.2 has been made by the defendants only and not by the plaintiff No.1. In the said circumstances, it cannot be said that plaintiff no.2 is neither a necessary nor a proper party or that the order dated 17.11.2016 ordering the impleadment of the said applicant is not in accordance with law.

8. The Hon'ble Supreme Court in the case of "*Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil*", *reported as (2010) 8 Supreme Court Cases 329*, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227, but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to



**CR-1797-2017 (O&M) and
CR-1133-2018**

-7-

a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

9. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition i.e. CR-1797-2017 being meritless, deserves to be dismissed and is dismissed.

CR-1133-2018

10. In continuation of the facts which have been mentioned hereinabove in CR-1797-2017 it would be relevant to note that after the plaintiff No.2-Gopal Krishan Kundi was made a party in the suit, an application dated 24.03.2017 was filed by plaintiff No.2 under Section 92 CPC read with Section 151 CPC for obtaining leave of the Court. The said application was dismissed vide order dated 27.11.2017 by the trial Court, which order is a subject matter of challenge in the present revision petition.

11. Learned senior counsel for the petitioner-plaintiff No.2/Gopal Krishan Kundi has submitted that once the plaintiff No.2 was permitted to be impleaded as a party, then, the said plaintiff No.2 had a right to file an application under Section 92 CPC seeking leave of the



CR-1797-2017 (O&M) and
CR-1133-2018

-8-

Court as is required under Section 92 CPC. It is further submitted that the said application has been wrongly dismissed vide the impugned order dated 27.11.2017, which order deserves to be set aside and the application filed by the petitioner/plaintiff No.2 deserves to be allowed and the permission under Section 92 CPC deserves to be granted.

12. Learned counsel appearing for the respondents-defendants in CR-1133-2018 has opposed the present revision petition.

13. This Court has heard learned senior counsel for the petitioner as well as learned counsel for respondents-defendants and has perused the paper-book and is of the opinion that the order dated 27.11.2017 passed by the trial Court is in accordance with law and deserves to be upheld for the reasons stated hereinafter.

14. 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*



CR-1797-2017 (O&M) and
CR-1133-2018

-9-

- 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) *authorising the whole or any part of the trust property to be let, sold, mortgaged or exchanged;*
 - (g) *settling a scheme; or*
 - (h) *granting such further or other relief as the nature of the case may require.”*

A perusal of the above provision would show that two or more persons having an interest in the trust and having obtained the leave of the Court may institute a suit for the reliefs which have been detailed in Section 92 of the CPC.

15. The trial Court while dismissing the application filed by plaintiff No.2 under Section 92 CPC placed reliance upon the judgment of the Hon'ble Supreme Court in the case titled as “**R.M. Narayana Chettiar and another Vs. N. Lakshmanan Chettiar and others, reported as 1991(1) SCC 48**, in which it was observed that leave of the Court is a condition precedent for institution of a suit. The relevant portion of the said judgment is reproduced herein below:-

“17. A plain reading of Section 92 of the Code indicates that leave of the court is a precondition or a condition precedent for the institution of a suit against a public trust for the reliefs set out in the said section; unless all the beneficiaries join in instituting the suit, if such a suit is instituted without leave, it would not be maintainable at all.....”

16. The Co-ordinate Bench of this Court ***in the judgment dated 28.05.1998*** in the case titled as “**Thakardawara Patiala Mohalla Bibrian**



CR-1797-2017 (O&M) and
CR-1133-2018

-10-

Vs. Nagar Singh, reported as 1998(3) RCR (Civil) 496, had observed that a suit under Section 92 CPC could only be filed with the permission of the Court and if no permission is taken, then the suit as such would not be maintainable. A specific question was framed in the said case to the effect that in case the permission is not sought initially and the same is sought and granted during the pendency of the suit, then, whether the said suit would be maintainable or not and while answering the said question, it was observed that the suit was not maintainable as one cannot inject life into still born suit and it was held that since in the said case the permission had been granted during the pendency of the suit, the suit could not be continued as it was not maintainable but the respondents therein, if so advised, could file a fresh suit on the basis of the permission granted during the pendency of the suit. It was observed that the provision of Section 92(1) CPC is mandatory. In the above-said case, although during the pendency of the suit the permission was granted yet the Co-ordinate Bench of this Court had observed that the suit was not maintainable as it was not granted at the inception. The facts of the said case were on a higher footing for the plaintiff therein than the facts of the present case, inasmuch as, in the present case, neither any permission was sought at the inception nor any such permission was granted even during the pendency of the case. The relevant portion of the said judgment is reproduced herein below: -

“5. It is abundantly clear from aforesaid that a suit under Section 92 for removal and appointment of a new trustee can only be filed with permission of the Court. Patiala was forming



CR-1797-2017 (O&M) and
CR-1133-2018

-11-

*part of B States and keeping in view sub-section (2) which makes it clear that permission of the Court would still be required and provisions of Section 92 in this regard are mandatory. **If no permission is taken, the suit as such with not be maintainable.***

xxx xxx xxx

7. *The question that arises for consideration is as to whether when the suit by itself is not maintainable and is filed without permission of the Court, whether grant of such a permission during pendency will get over the difficulty that suit was not maintainable ?*

xxx xxx xxx

*(Even the Madras High Court in the decision rendered in the case of N. Anandan v. Ayyanna Gounder and others, AIR 1994 Madras 43 further held in similar terms that it is necessary to have leave of the Court before filing a suit. **It is a condition precedent in this regard. Without such a permission of the Court, the suit was not maintainable. One cannot inject life into still born suit. Once permission had to be obtained before filing the suit, in that event there was no escape but to conclude that once permission has been granted, it would only permit the respondents to file a fresh suit, if need be on basis of the said permission rather than continuing with the old one.***

9.The permission had been obtained during pendency of the suit and on basis of the said permission, the respondents if so advised can only bring a fresh suit. **They cannot continue with the suit which was not maintainable without permission. The provisions of sub-sections (1) and (2) of Section 92 Civil Procedure Code are mandatory.”**

17. Similarly, the Co-ordinate Bench of this Court *in the judgment dated 17.11.1998* in the case titled as “**Maharshi Dayanand Education Society Vs. Satyendra Bhadana, reported as 1991(1) PLR 346,** had observed as under: -

“15. On close scrutiny, a clear distinction is drawn between the two. Under Section 92 of the Code, the Legislature uses the words



CR-1797-2017 (O&M) and
CR-1133-2018

-12-

*"and having obtained the leave of the Court may institute a suit". This is clear that it is a sine qua non before institution of the suit. Without such a permission, the suit cannot proceed. While under Order 1 Rule 8 of the Code, the Legislature has used the expression "with the permission of the Court." Though permission of the Court must be obtained before filing of the suit, yet it can be deferred and can be granted subsequently during the pendency of the suit, as seen hereinafter. There is plain difference in the language. **Under section 92 of the Code, necessary permission of the Court is a must before any step is taken.** That will not be so in the suit filed under Order 1 Rule 8 of the Code.... "*

18. No contrary judgment has been cited on behalf of the petitioner.

19. From a perusal of the above-said judgments, it is apparent that it is a matter of settled law that in case a suit is filed under Section 92 CPC, the leave of the Court is required to be taken at the time of its institution and in case the same is not done, the suit would not be maintainable and the suit also cannot be cured by seeking grant of leave subsequent to the filing of the case.

20. In the present case, it is not disputed that the suit was instituted on 22.06.2016 and no application was filed seeking leave of the Court to institute a suit as required under Section 92 CPC on the date of institution of the said suit. The said application for seeking leave of the court was only filed by plaintiff no.2 on 24.03.2017 and thus, the trial Court has rightly dismissed the said application in view of the law laid down in the above-said judgments.

21. It would also be relevant to note that while passing the order dated 27.11.2017, the submission of the counsel for the



CR-1797-2017 (O&M) and
CR-1133-2018

-13-

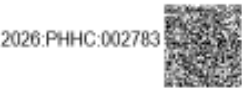
petitioner/plaintiff No.2 to the effect that the suit was maintainable as the plaintiff No.2 had a right to file a suit individually also was taken note of and the case was adjourned thereafter.

22. The Hon'ble Supreme Court in the case of “*Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil*”, reported as (2010) 8 *Supreme Court Cases* 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227, but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

23. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while

**CR-1797-2017 (O&M) and
CR-1133-2018**

-14-



exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition i.e. CR-1133-2018 being meritless, deserves to be dismissed and is dismissed.

January 13, 2026
naresh.k

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?	Yes
Whether reportable?	Yes