
(1983) 11 P&H CK 0034

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 2353 of 1981

Amritsar Improvement Trust, Amritsar

APPELLANT

Vs

Pritam Singh

RESPONDENT

Date of Decision : 16-11-1983

Acts Referred:

Citation : (1984) PLJ 211 : (1984) RRR 14

Hon'ble Judges : J.V.Gupta, J

Advocate : A.S. Chahal, Advocate., Advocates for appearing Parties

Judgement

J.V. Gupta, J.

1. This order will dispose of Regular Second Appeal Nos. 1964, 1981 and 2353 of 1981; 66, 67, 160, 701 and 2078 of 1982 and 266 of 1983.

2. The facts giving rise to Regular Second Appeal No. 2352 of 1981 are that the plaintiffrespondent filed the suit for the declaration to the effect that the order dated September 21, 1976, passed by the defendant appellant vide resolution No. 267 was wrong, illegal and ineffective. The suit was ultimately decreed by the trial Court on July 20, 1978. Aggrieved against the same the defendantTrust through its Chairman filed the appeal in the Court of the District Judge, Amritsar. At the time of the final hearing of the appeal, a preliminary objection was raised on behalf of the plaintiff that the appeal as such filed on behalf of the defendant was not maintainable as there was no resolution passed by the defendant taking a decision to file the appeal against the judgment and decree of the trial Court. This objection prevailed with the learned lower appellate Court. Relying upon Garib Chand v. Municipal Committee, Budhlada, 1979 Punjab Punjab Law Reporter 527 : 1984 R.R.R. 292., it came to the conclusion that it had no jurisdiction to decide the appeal on merits. Consequently, all the appeals were dismissed on that ground alone. Dissatisfied with the same, the defendant Trust has come up in second appeal to this Court.

3. The learned counsel for the appellant contended that the decision of this Court

in Garib Chand's case (supra), has no applicability to the facts of the present case. The provisions in the Punjab Town Improvement Act, 1922 (hereinafter called the Act), are quite different from the provisions of the Punjab Municipal Act, which had come up for consideration in the abovesaid case. The learned counsel particularly referred to section 96 of the Act which reads as follows :

"96. The Chairman may, subject to the control of the Trust,

(i) institute defend or withdraw from legal proceedings under this Act;

(ii) compound any offence against this Act;

(iii) admit, compromise or withdraw any claim under this Act; and

(iv) obtain such legal advice and assistance as he may from time to time deem it necessary or expedient to obtain, or as he may be desired by the Trust to obtain, for any of the purposes referred to in the foregoing clause of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Trust or any officer or servant of the Trust."

Thus, argued the learned counsel, that in view of the said provisions, the Chairman of the defendant Trust was competent to file the appeals and that the view taken by the learned lower appellate Court was wrong. In support of this contention the learned counsel relied upon PEPSU Road Transport Corporation v. Kirat Mohinder Singh, 1982 Current Law Journal (C&Cr) 566.

4. After hearing the learned counsel for the parties, I find force in the contention raised on behalf of the appellant.

5. Section 96 of the Act, reproduced above, clearly provides that the Chairman of the Trust, subject to its control, may institute defend or withdraw from legal proceedings under the Act. Thus, no resolution by the Trust taking a decision to file an appeal against the judgment and decree of the trial Court was necessary. The Chairman himself was competent to file appeal on behalf of the defendant. In view of the aforequoted provisions, it could not be successfully argued on behalf of the respondents that the appeal filed on behalf of the defendant through its Chairman was not competent. It was observed in Kirat Mohinder Singh's case (supra), wherein the provisions of section 12 of the PEPSU Road Transport Corporation Act, 1950 came up for consideration, that the passing of any specific resolution by the Corporation was not contemplated under the Act, in each and every case and that it will depend upon the constitution of a corporation and the manner in which its functions are regulated by the statute itself. There cannot be any universal rule that every corporate body must act through resolutions passed by it in each and every case.

6. In this view of the matter, all the appeals succeed and are allowed. The judgments and decrees of the lower appellate Court are set aside. The cases are remanded to the Court of the District Judge, Amritsar, for deciding the appeals on merits in accordance with law. The parties have been directed to appear in

that Court on December 14, 1983. The records of the case be sent back forthwith.