

(1980) 04 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 305 of 1976

Niranjan Singh and Others

APPELLANT

Vs

Edward Ganj Public Welfare Association and Others

RESPONDENT

Date of Decision : 30-04-1980

Acts Referred:

Companies Act, 1956 — Section 171, 257, 629A

Citation : (1980) 04 P&H CK 0013

Hon'ble Judges : S.S. Sandhawalia, C.J.;J.V. Gupta, J

Bench : Division Bench

Advocate : J.S. Narang, for the Appellant; R.C. Dogra and S.K. Galhotra, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sandhawalia, C.J.—This appeal, under Clause 10 of the Letters Patent, is directed against the judgment of the learned single judge whereby he dismissed a petition u/s 257 read with Sections 629A and 171 of the the Companies Act, 1956, read with Rule 9 of the Companies (Court) Rules, 1959.

2. It is unnecessary to advert to the facts in any great detail. It suffices to mention that the primary and indeed the sole relief claimed in the aforesaid petition was that the company's election held on September 8, 1975, be declared illegal and void. A reference to the petition, the reply filed on behalf of the respondents and the replication filed thereto would plainly indicate that a contentious dispute on facts has been raised. The learned single judge, relying on two earlier authorities of this court, dismissed the petition on the ground that the civil court had the jurisdiction to go into the matter and relegated the petitioners to file a civil suit.

3. Perhaps unable to raise any meaningful challenge to the judgment of the learned single judge, the learned counsel for the appellants pinned himself on the use of the word " competent " by the learned single judge in disposing of the

petition. In the present case, we are disinclined to advert to this aspect of the case because undeniably an intricate dispute on facts had been raised and the learned single judge, therefore, declined to go into the same and leave the appellants to their ordinary and the more appropriate remedy by way of civil suit. As we read the judgment, the clear tenor thereof is that the appellants should resort to the ordinary jurisdiction which is obviously more suitable to the resolving of issues of fact. Mr. J.S. Narang for the appellant was himself very fair in conceding that undoubtedly the civil courts had the jurisdiction to go into the nature of the disputes sought to be raised in the petition and grant the relief which was primarily claimed therein.

4. In this view of the matter, we do not find any merit in this appeal, which is hereby dismissed. Parties are, however, left to bear their own costs.