

(2009) 03 P&H CK 0266
In the Punjab And Haryana At Chandigarh

Shri Guru Har Krishan Education Trust and Another	APPELLANT
Vs	
Sukhwant Singh and Others	RESPONDENT

Date of Decision : 26-03-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : (2009) 03 P&H CK 0266

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Garg, J.—This is defendants' revision petition challenging the order dated 19.1.2006 passed by the Additional Civil Judge (Sr. Division), Bathinda whereby application filed by co-defendant Sukhwant singh (now respondent No. 1) for transposing him as plaintiff, was allowed.

2. Respondents Nos. 2 and 3 filed a suit along with application u/s 92 CPC for filing the suit in a representative capacity, with regard to mismanagement of the affairs of the petitioner-Trust. Respondent No. 1 filed an application for transposing him from the array of respondents to that of plaintiffs. The aforesaid application was allowed by the Additional Civil Judge (Sr. Division), Bathinda vide impugned order dated 19.1.2006.

3. Challenging the aforesaid order, learned counsel for the petitioners has vehemently argued that the Court below has accepted the application for transposing respondent No. 1 as plaintiff in a casual manner which has occasioned failure of justice to the petitioners. It may be noticed that the prayer of respondent No. 1 was not opposed by the plaintiff-respondents Nos. 2 and 3. It was vehemently argued that when the application of respondent No. 1 was allowed, the provision of Order 1 Rule 10 CPC were not attracted because there was no suit before the trial Court and in fact, the trial Court was taking up the application filed by respondents Nos. 2 and 3 to file the suit against the

petitioner-Trust in a representative capacity and therefore, the impugned order could not have been passed.

4. Counsel for the respondent has supported the impugned order and submitted that the plaintiffs who are masters of their suit have no objection to the prayer of contesting respondent No. 1 for transposing himself as plaintiff and even the technical objection of absence of permission of the competent Court to allow respondents Nos. 2 and 3 to file suit u/s 92 of the CPC against the petitioners, already stood removed as the trial Court vide order dated 23.12.2006 which has been placed on record of the case has already granted the aforesaid permission.

5. In view of the aforesaid fact alone, I find no reason to interfere in the impugned order. Respondents Nos. 2 and 3 have already been granted necessary permission u/s 92 of the CPC to file the suit against the petitioners in a representative capacity. Once that is so, no prejudice can be said to have been caused to the petitioners if the contesting respondent No. 1 has been transposed as a co-plaintiff in the suit.

6. No merits.

7. Dismissed.