



Sr. No.120

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

**RSA-462-2025 (O&M)
Date of Decision : 13.02.2025**

Rohtak Khadi Ashram ...Appellant

Versus

Bali Ram ...Respondent

CORAM : HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Rahul Yadav, Advocate,
for the appellant.

LAPITA BANERJI, J. (Oral)

CM-1495-C-2025

This is an application for condonation of delay of 12 days in re-filing the appeal.

Perused the grounds.

Such grounds are found sufficient.

Application is allowed and delay of 12 days in re-filing the appeal is condoned.

Main case

In this regular second appeal, the appellant through its secretary Hawa Singh has challenged the judgment and decree dated February 17, 2023 passed by the Civil Judge (Junior Division) at Rohtak and the judgment dated November 11, 2024 passed by the Additional District Judge, Rohtak.

2. In the suit for declaration and permanent injunction being Civil Suit No.12 of 2018 filed by the appellant-plaintiff against the sole defendant-respondent, the trial Court held that the defendant was a



Managing Trustee after September 14, 2015, a trustee for life and the secretary of the trust till his resignation on September 14, 2015.

3. Facts reveal that the society came into existence vide Trust deed dated March 31, 2014. As per the terms of the trust deed, all the trustees who were founder members would be members for life. At any given point in time there had to be more than 7 trustees for the trust to function. The tenure of the Managing Trustee who was to be appointed amongst the trustees would be for a period of 5 years.

4. The plaintiff sought to contend before the trial Court that the defendant-Managing Trustee vide Resolution dated September 14, 2015 resigned from the post of Secretary/Mantri as well as from the post of Managing Trustee. The fact that the defendant-Managing Trustee continued to attend meetings after 2015 and represented the society before the State authorities and the State authorities addressed letters to him as the Managing Trustee led that the trial Court to conclude that even though the defendant resigned from the post of Secretary, he did not resign from the post of Managing Trustee.

5. Upon perusal of the Resolutions dated September 14, 2015 and May 15, 2018, the trial Court held that even after September 14, 2015, the defendant continued to attend meetings in the capacity of Managing Trustee. Therefore, the plaintiff's contentions that vide Resolution dated September 14, 2015, the defendant resigned both from the post of Secretary and Managing Trustee was not accepted. The trial Court dismissed the suit vide impugned order dated February 17, 2023. The First Appellate Court examined the Trust Deed on record and also the evidence of Hawa Singh who deposed as PW-1. During cross-examination the plaintiff admitted that he was unaware as to what transpired in the



meetings dated January 8, 2018 and January 29, 2018 and was also unaware whether the defendant attended the said meetings. He did not know how many meetings were held after his appointment on January 23, 2016.

6. Furthermore, he went on to admit that in the meeting dated January 23, 2016 when he was inducted as the Secretary, the defendant was present and acted as a Managing Trustee. He also admitted that the signatures on the Resolution passed on January 29, 2018-exhibit D-1 belonged to the defendant-respondent.

7. The Appellate Court took note of the subsequent Civil Suit being CS-944-2018 filed by plaintiff-*Hawa Singh* against *Ranbir and others* pending before the Civil Court in Sonipat. In the said Civil Suit No.944-2018, the defendant-Bali Ram was cross-examined and he deposed that the resignation given on September 14, 2015 was from the post of Mantri/secretary but not from the post of a Trustee and he continued to be the Managing Trustee even after September 2015.

8. The learned Additional District Judge held that the factum of the defendant being the founder member of the Trust was not in denial. The fact that he was appointed as a Secretary-cum-Mantri was also not in denial. When the Trust was formed, the defendant was appointed as the Managing Trustee of the Trust. After attaining 58 years of age he resigned from the post of Secretary-Mantri in 2015. After September, 2015 also he continued to attend the meetings of the Trust as the Managing Trustee. Letters from the State Director of Khadi and Village Industries Commissioner, Ambala addressed the defendant- respondent as the Managing Trustee even in the year 2016.



9. The plaintiff himself was appointed vide Resolution dated January 23, 2016 when the defendant acted as the Managing Trustee. Proceedings against plaintiff-Hawa Singh was initiated on December 29, 2017 and he was dismissed from the post of Secretary on January 29, 2018.

10. The First Appellate Court found that on May 15, 2018 the defendant Bali Ram was accepted as Managing Trustee and he represented the Trust Members before the State Office of Khadi and Village Industries Commission. It came to the conclusion that the posts of Secretary-Mantri of the Trust and the Managing Trustee were two separate posts. The resignation of the defendant was accepted only from the post of Secretary and not from the post of Managing Trustee. Since the plaintiff was unable to prove anything contrary to the contentions raised by the defendant, the appeal was consequently dismissed.

11. This Court has heard the learned counsel for the appellant and perused the material on record.

12. It appears from clause 5 of the Trust Deed that at any given point in time there has to be more than 7 members of the Trust. Out of them, at least 5 members would have to be on the Board of Trustees. All the Trust Members would be life members. The names of the founder Trustees were mentioned in the first table starting at page 1 of the Trust Deed. The said founder members were eight in number. Therefore, as per clause 5 of the Trust Deed, the stipulations with regard to the existence of more than 7 trustees, at any given point in time was satisfied. Out of the members on the Board, one member was to be chosen as the Managing Trustee for a period of 5 years as per clause 6 of the Trust Deed. Therefore, this Court is unable to accept the contention that once the tenure of the



Managing Trustee of the Society expires the said Managing Trustee even ceases to be a Trustee.

13. This Court is of the view that out of the members-Trustees, any one person can be appointed a Managing Trustee for 5 years. After the completion of a period of 5 years, a new Managing Trustee has to be appointed from the board of Trustees. The erstwhile Managing Trustee after the expiry of 5 years would continue to be a Trustee for life. After expiry of the tenure of 5 years as the Managing Trustee, he would continue to be a trustee/founder member of the trust.

14. This Court also finds that admittedly vide Resolution dated January 23, 2016, the plaintiff-Hawa Singh was appointed as a Secretary of the plaintiff-Trust. Admittedly, the defendant attended the meeting on January 23, 2016 as the Managing Trustee and passed the Resolution of appointing the said Hawa Singh as the Secretary. Assuming that the defendant was devoid of his authority to act as a Managing Trustee on January 23, 2016, the very appointment of Hawa Singh as the Secretary of the Trust would be *non-est* in the eye of law. Therefore, if the contention of the appellant-plaintiff is accepted regarding resignation of the defendant from the post of the Secretary as well as the Managing Trustee vide Resolution dated September 14, 2015, the very appointment of the said Hawa Singh would be bad in law. Consequently, he would not have any *locus standi* to maintain the civil suit, the first appeal and the present regular second appeal. Therefore, this Court is constrained to hold that the present RSA is a frivolous litigation and devoid of any merit.

15. This Court finds that no question of law has been raised in the present RSA. However, the issue with regard to whether the defendant continued to be a Trustee despite resignation dated September 14, 2015 has



been answered again by approving the concurrent findings of the Courts below. There is no infirmity or illegality in the said judgments.

16. In view of the aforesaid discussion, RSA No.462-2025 is **dismissed.**

17. Connected application(s), if any, are accordingly disposed of.

**(LAPITA BANERJI)
JUDGE**

February 13, 2025

Vandana

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No