

GAHC010129272024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/1959/2024

CITY MONTESSORI HIGH SCHOOL AND ANR
BIRUBARI, R K MISSION ROAD GUWAHATI 16, REPRESENTED BY ITS
SECRETARY SRI KHANIN CHANDRA MEDHI.

2: KHANIN CHANDRA MEDHI
S/O- SRI GOPAL CHANDRA MEDHI
R/O- RUP NAGAR SANKARDEV PATH
P.S. BHANGAGARH
GUWAHATI-32

VERSUS

THE STATE OF ASSAM AND 10 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, REVENUE AND
DISASTER MANAGEMENT DEPARTMENT, GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-6.

2:THE SECRETARY
GOVERNMENT OF INDIA
MINISTRY OF LAW
SHASTRI BHAVAN BLOCK
DR. RAJENDRA PRASAD ROAD
NEW DELHI-110001.

3:THE DEPUTY COMMISSIONER
KAMRUP METRO
GUWAHATI-781001.

4:THE CIRCLE OFFICER
GUWAHATI REVENUE CIRCLE
GUWAHATI-781001

5:THE CENTRAL PUBLIC WORKS DEPARTMENT
REPRESENTED BY ITS CHIEF ENGINEER

BAMUNIMAIDAM
GUWAHATI-20.

6:THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH REPRESENTED BY ITS REGISTRAR
RAJGARH ROAD
GUWAHATI-05.

7:SRI JOYDEEP DUTTA
R/O- BIRUBARI
ANANDA NAGAR
R K MISSION ROAD
NEAR THE CITY MONTESSORI SCHOOL
GUWAHATI-16.

8:THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
REP. BY ITS SECRETARY SRI RAJIB HAZARIKA
S/O LT. SONESWAR HAZARIKA
R/O JATIYA SWAHID PATH NO. 1 (AMARNATH TEMPLE ROAD)
P.O- BELTOLA
P.S- DISPUR
GUWAHATI- 28
ASSAM.

9:RAJIB HAZARIKA
S/O LT. SONESWAR HAZARIKA
SECRETARY
CAT BAR ASSOCIATION
GUWAHATI BENCH
R/O JATIYA SWAHID PATH NO. 1 (AMARNATH TEMPLE ROAD)
P.O- BELTOLA
P.S- DISPUR
GUWAHATI- 28
ASSAM.

10:THE CITY MONTESSORI SCHOOL PARICHALONA SAMITY
THE CITY MONTESSORI SCHOOL PORICHALONA SAMITY
REP. BY ITS PRESIDENT SRI DILIP DAS
S/O LATE ANIL DAS
AGED ABOUT 64 YRS
R/O R.K MISSION ROAD
BIRUBARI
GUWAHATI
ASSAM
PIN- 781016.

11:DILIP DAS

S/O LATE ANIL DAS
AGED ABOUT 64 YRS
R/O R.K MISSION ROAD
BIRUBARI
GUWAHATI-16

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/2956/2022

CITY MONTESSORI HIGH SCHOOL AND ANR
BIRUBARI
R K MISSION ROAD GUWAHATI 16
REPRESENTED BY ITS SECRETARY SRI KHANIN CHANDRA MEDHI.

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Advocate for : MR. M DUTTA

Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 10 ORS

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

O R D E R

22.07.2024

Heard Mr. M.K. Choudhary learned Senior Counsel assisted by Mr. M. Dutta, learned counsel appearing for the applicants. Also heard Mr. A. Bhattacharyya, learned Standing Counsel, Revenue and Disaster Management for respondent No. 1, Ms. A. Gayan, learned CGC for respondent Nos. 2 and 5, Mr. M. Das, learned Additional Senior Government Advocate for respondent Nos. 3 and 4, Mr. S.K. Ghosh learned Counsel for respondent No. 6, Mr. K.N. Choudhary, learned Senior Counsel assisted by Mr. D.J. Das, learned counsel for the respondent Nos. 8 and 9 and Mr. P.D. Nair, learned counsel for respondent Nos. 10 and 11.

2. This is an application for amendment of the writ petition i.e. WP (C) No. 2956/2022 in view of the impleadment of the respondent Nos. 10 and 11 by order dated 12.06.2024 passed in IA(C) No. 2951/2023 in the writ petition.

3. The facts of the case is that the petitioners/applicants had filed the writ petition challenging the allotment of the land of the petitioner No. 1 School to the respondent No. 6 for construction of building of the Central Administrative Tribunal.

4. It is the alleged case of the petitioners/applicants that the respondent No. 6 was allotted an adjacent plot of land for the purpose of construction of the Central Administrative Tribunal. It appears that after having undertaking of the construction of the boundary wall over the said land, the respondent No. 6 authorities found that the land allotted to them has been encroached upon by the respondent No. 7.

- 5.** As such, respondent No. 6 has filed WP(C) No. 1384/2022 for demarcation of the land. However, the said claim against the respondent No. 7 has been abandoned and on the basis of the alleged report that the school is not functioning, the land allotted to the petitioner school has been taken over from the petitioners.
- 6.** Thereafter, on an application submitted by the respondent No. 8, the said land was allotted in favour of respondent No. 6.
- 7.** Aggrieved by such handing over of possession of the petitioner's land to respondent No. 6, the petitioners filed WP (C) No. 2956/2022. In the said writ petition, the petitioners inter alia are challenging the Order dated 11.03.2022 issued by the Circle Officer, Guwahati, whereby possession of the subject land was allotted to the respondent No. 6, order dated 8.03.2022 issued by the Deputy Commissioner, Kamrup (M) for handing over the petitioner's land to respondent No. 6, the proposal dated 05.02.2022, proposing to hand over the subject land to the respondent No. 6, Cabinet decision dated 02.04.2022 for allotting subject land to respondent No. 6, order dated 13.04.2022 issued by the Revenue and Disaster Management Department pursuant to the said Cabinet decision, and for direction to the respondent authority not to allot the subject land to any other person and/or handed over back to the petitioner No. 1.
- 8.** Pending adjudication of the writ petition, respondent Nos. 10 and 11 by filing an interlocutory application i.e. IA(Civil) No. 2951/2023 sought impleadment in the connected writ petition by projecting themselves as successor of the earlier Committee. It is stated in the aforesaid application that upon the School Governing Committee convening a General Meeting on 14.05.2022, dissolved the earlier school Governing Committee wherein the petitioner No. 2 was the Secretary and further a new Governing Committee was constituted.
- 9.** It is further stated in the aforesaid application that the newly constituted City Montessori Porichalana Committee has been registered under the Societies Registration Act bearing registration No. RS/KAM(M)-02/263/386 of 2022-23 dated

18.09.2022. It is further stated in that application that in pursuance to the Resolution of SDLAC dated 19.05.2022, the respondent Nos. 10 and 11 executed the handing over/taking over Certificate dated 23.09.2022 by which land measuring 0 bigha 4 katha 10 lecha covered by Dag no. 1852 of Ulubari under Ulubari Mouza was allotted in favour of Principal City Montessori School for construction of school building and accordingly, the said land was taken over by the Principal on 23.09.2022 at 11 am.

10. Pertinent that on 12.06.2024, this Court allowed the aforesaid application by impleading the said successors of the Managing Committee as respondent Nos. 10 and 11. In view of the aforesaid impleadment, the present amendment application has been filed.

11. Mr. M.K. Choudhury, learned Senior Counsel for the applicants submits that the proposed amendments has become necessary in view of the impleadment of the respondent Nos. 10 and 11.

12. Mr. K.N. Choudhury, learned Senior Counsel for respondent Nos. 8 and 9 submits that the amendment application is not maintainable as the same shall change the character of the writ petition.

13. Mr. S.K. Ghosh, learned counsel for respondent No. 6 also submits that the petitioners by seeking amendment, is resorting to change the character of the writ petition and is also seeking a new relief relating to a distinct cause of action, which therefore, cannot be clubbed in the present writ petition.

14. Heard the parties at length and perused the materials available on record.

15. It is well settled that all amendments of pleadings should be allowed which are necessary for determination of the real controversies in the suit provided that the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defence taken. Pertinent to refer to the decision of the Apex Court in the case of ***Life Insurance Corporation of India V. Sanjeev Builders Private limited*** reported in ***AIR 2022 SC 4256***. Paragraphs 19 to 30 of

the aforesaid decision are reproduced herein for ready reference:-

“19. It is well settled that the court must be extremely liberal in granting the prayer for amendment, if the court is of the view that if such amendment is not allowed, a party, who has prayed for such an amendment, shall suffer irreparable loss and injury. It is also equally well settled that there is no absolute rule that in every case where a relief is barred because of limitation, amendment should not be allowed. It is always open to the court to allow an amendment if it is of the view that allowing of an amendment shall really sub-serve the ultimate cause of justice and avoid further litigation. In [L.J. Leach & Co. Ltd. & Anr. v. Jardine Skinner & Co.](#), AIR 1957 SC 357, this Court at paragraph 16 of [the said decision](#) observed as follows:

“16. It is no doubt true that courts would, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the court to order it, if that is required in the interest of justice.....”

20. Again in [T.N. Alloy Foundry Co. Ltd. v. T.N. Electricity Board & Ors.](#), (2004) 3 SCC 392, this Court observed as follows:

“2. The law as regards permitting amendment to the plaint, is well settled. In [L.J. Leach and Co. Ltd. v. Jardine Skinner and Co.](#) [AIR 1957 SC 357 : 1957 SCR 438] it was held that the Court would as a rule decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the court to order it.

3. It is not disputed that the appellate court has a coextensive power of the trial court. We find that the discretion exercised by the High Court in rejecting the plaint was in conformity with law.”

21. So far as the answer to the specific plea that the claim of damages is barred by limitation and cannot be permitted at this stage is concerned, it becomes necessary to examine the various judicial pronouncements of this Court. The principles governing an amendment which may be permitted even after the expiry of the statutory period of limitation were [laid down by the Privy Council](#) in its judgment in [Charan Das & Ors. v. Amir Khan & Ors.](#), AIR 1921 PC 50. In this case, the Privy Council laid down the principles thus:

“.....That there was full power to make the amendment cannot be disputed, and though such a power should not as a rule be exercised where its effect is to take away from a defendant a legal right which has accrued to him by lapse of time, yet there are cases: see for example [Mohummud Zahoor Ali v. Rutta Koer](#), where such considerations are outweighed by the special circumstances of the case, and their Lordships are not prepared to differ from the Judicial Commissioner in thinking that the present case is one.”

22. It would be useful to also notice the observations of this Court in, [Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil & 2 Ors.](#), 1957 SCR 595 : AIR 1957 SC 363, wherein this Court considered an objection to the amendment on the ground that the same amounted to a new case and a new cause of action. In this case, this Court laid down the principles which would govern the exercise of discretion as to whether the court ought to permit an amendment of the pleadings or not. This Court approved the observations of Batchelor, J., in the case of [Kisandas](#)

Rupchand & Anr. v. Rachappa Vithoba Shilwant and Ors. reported in ILR (1909) 33 Bom 644, when he laid down the principles thus:

“10.“All amendments ought to be allowed which satisfy the two conditions (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties ... but I refrain from citing further authorities, as, in my opinion, they all lay down precisely the same doctrine. That doctrine, as I understand it, is that amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. It is merely a particular case of this general rule that where a plaintiff seeks to amend by setting up a fresh claim in respect of a cause of action which since the institution of the suit had become barred by limitation, the amendment must be refused; to allow it would be to cause the defendant an injury which could not be compensated in costs by depriving him of a good defence to the claim. The ultimate test therefore still remains the same : can the amendment be allowed without injustice to the other side, or can it not?”

23. This Court has repeatedly held that the power to allow an amendment is undoubtedly wide and may be appropriately exercised at any stage in the interests of justice, notwithstanding the law of limitation. In this behalf, in *Ganga Bai v. Vijay Kumar & Ors.*, (1974) 2 SCC 393, this Court held thus:

“22. The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. But the exercise of such far-reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the Court.....”

24. Again in *M/s Ganesh Trading Co. v. Moji Ram*, (1978) 2 SCC 91, this Court laid down the principles thus:

“4. It is clear from the foregoing summary of the main rules of pleadings that provisions for the amendment of pleadings, subject to such terms as to costs and giving of all parties concerned necessary opportunities to meet exact situations resulting from amendments, are intended for promoting the ends of justice and not for defeating them. Even if a party or its Counsel is inefficient in setting out its case initially the shortcoming can certainly be removed generally by appropriate steps taken by a party which must no doubt pay costs for the inconvenience or expense caused to the other side from its omissions. The error is not incapable of being rectified so long as remedial steps do not unjustifiably injure rights accrued.”

25. The principles applicable to the amendments of the plaint are equally applicable to the amendments of the written statements. The courts are more generous in allowing the amendment of the written statement as question of prejudice is less likely to operate in that event. The defendant has a right to take alternative plea in defense which, however, is subject to an exception that by the proposed amendment other side should not be subjected to injustice and that any admission made in favor of the plaintiff is not withdrawn. All amendments of the pleadings should be allowed which are necessary for determination of the real controversies in the suit provided the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defense taken. Inconsistent and contradictory

allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings. The proposed amendment should not cause such prejudice to the other side which cannot be compensated by costs. No amendment should be allowed which amounts to or relates in defeating a legal right accruing to the opposite party on account of lapse of time. The delay in filing the application for amendment of the pleadings should be properly compensated by costs and error or mistake which, if not fraudulent, should not be made a ground for rejecting the application for amendment of plaint or written statement.

26. But undoubtedly, every case and every application for amendment has to be tested in the applicable facts and circumstances of the case. As the proposed amendment of the pleadings amounts to only a different or an additional approach to the same facts, this Court has repeatedly laid down the principle that such an amendment would be allowed even after the expiry of statutory period of limitation.

27. In this behalf, in *A.K. Gupta & Sons Ltd. v. Damodar Valley Corporation*, AIR 1967 SC 96 : (1966) 1 SCR 796, this Court held thus:

“7. a new case or a new cause of action particularly when a suit on the new case or cause of action is barred: *Weldon v. Neale* [19 QBD 394]. But it is also well recognised that where the amendment does not constitute the addition of a new cause of action or raise a different case, but amounts to no more than a different or additional approach to the same facts, the amendment will be allowed even after the expiry of the statutory period of limitation:

28. In entitled, *G. Nagamma & Anr. v. Siromanamma & Anr.*, (1996) 2 SCC 25, this Court considered the proposed amendment of the plaint and noticing that neither the cause of action would change nor the relief would be materially affected, allowed the same. This Court in this case noticed that in the plaintiff's suit for specific performance, the plaintiff was entitled to plead even inconsistent pleas and that in the present case, the plaintiffs were seeking only the alternative reliefs. It appears that the plaintiffs had filed a suit for specific performance of an agreement of re-conveyance. By the application under *Order VI Rule 17 of the CPC* for amendment of the plaint, the appellants were pleading that the transactions of execution of the sale deed and obtaining a document for re-conveyance were single transactions viz. mortgage by conditional sale. They also wanted to incorporate an alternative relief to redeem the mortgage. At the end of the prayer, the plaintiff sought alternatively to grant of a decree for redemption of the mortgage. This amendment was permitted by this Court.

29. In *Pankaja & Anr. v. Yellappa* (dead) by lrs. & Ors., (2004) 6 SCC 415, this Court held that it was in the discretion of the court to allow an application under *Order VI Rule 17 of the CPC* seeking amendment of the plaint even where the relief sought to be added by amendment was allegedly barred by limitation. The Court noticed that there was no absolute rule that the amendment in such a case should not be allowed. It was pointed out that the court's discretion in this regard depends on the facts and circumstances of the case and has to be exercised on a judicial evaluation thereof. It would be apposite to notice the observations of this Court in this pronouncement in extenso. The principles were *laid down by* this Court thus:

“12. So far as the court's jurisdiction to allow an amendment of pleadings is concerned, there can be no two opinions that the same is wide enough to permit amendments even in cases where there has been substantial delay in filing such amendment applications. This Court in numerous cases has held that the dominant purpose of allowing the

amendment is to minimise the litigation, therefore, if the facts of the case so permit, it is always open to the court to allow applications in spite of the delay and laches in moving such amendment application.

13. But the question for our consideration is whether in cases where the delay has extinguished the right of the party by virtue of expiry of the period of limitation prescribed in law, can the court in the exercise of its discretion take away the right accrued to another party by allowing such belated amendments.

14. The law in this regard is also quite clear and consistent that there is no absolute rule that in every case where a relief is barred because of limitation an amendment should not be allowed. Discretion in such cases depends on the facts and circumstances of the case. The jurisdiction to allow or not allow an amendment being discretionary, the same will have to be exercised on a judicious evaluation of the facts and circumstances in which the amendment is sought. If the granting of an amendment really subserves the ultimate cause of justice and avoids further litigation the same should be allowed.

There can be no straitjacket formula for allowing or disallowing an amendment of pleadings. Each case depends on the factual background of that case.

xxx xxx xxx

16. This view of this Court has, since, been followed by a three-Judge Bench of this Court in the case of [T.N. Alloy Foundry Co. Ltd. v. T.N. Electricity Board](#) [(2004) 3 SCC 392]. Therefore, an application for amendment of the pleading should not be disallowed merely because it is opposed on the ground that the same is barred by limitation, on the contrary, application will have to be considered bearing in mind the discretion that is vested with the court in allowing or disallowing such amendment in the interest of justice.

xxx xxx xxx

18. We think that the course adopted by this Court in Ragu Thilak D. John case [(2001) 2 SCC 472] applies appropriately to the facts of this case. The courts below have proceeded on an assumption that the amendment sought for by the appellants is ipso facto barred by the law of limitation and amounts to introduction of different relief than what the plaintiff had asked for in the original plaint. We do not agree with the courts below that the amendment sought for by the plaintiff introduces a different relief so as to bar the grant of prayer for amendment, necessary factual basis has already been laid down in the plaint in regard to the title which, of course, was denied by the respondent in his written statement which will be an issue to be decided in a trial. Therefore, in the facts of this case, it will be incorrect to come to the conclusion that by the amendment the plaintiff will be introducing a different relief.”

30. From the above, therefore, one of the cardinal principles of law in allowing or rejecting an application for amendment of the pleading is that the courts generally, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of filing of the application. But that would be a factor to be taken into account in the exercise of the discretion as to whether the amendment should be ordered, and does not affect the power of the court to order it, if that is required in the interest of justice.”

16. The proposed amendments as contained in the amendment application are as hereunder:-

“8. That after paragraph No. 30 of the writ petition, the following paragraphs may be allowed to be added in the writ petition.

"30A That the petitioner No. 2 still continues to be Secretary of the City Montessori High School and the said so called City Montessori High School Porichalana Committee is a fake body having no authority to run the affairs of the City Montessori High School.

30B. That on 04.05.2022 a so-called general meeting was held and that too by some strangers who have got no relations with the School or its Managing Committee. The said Committee which has been formed is a fake Committee. It may be pertinent to mention that the Principal of the School accordingly on 16th February 2023 issued a notice in the "Axomiya Protidin" informing the public in general that persons like Dilip Das, Bijoy Rajbonshi, Joydeep Debroy, Pankaj Kumar Jha, Pinak Chakraborty, Kamal Sharma, Shamal Deb, Mitali Rajbongshi and Prasanta Sharma have got no relation with the School and they have formed a fake Committee in the name of the School and have been learnt to indulged in various illegalities and for that the public at large were requested not to engage with them in any issue regarding the School and if such engagement is made the school authorities shall not be liable. In the said notice the telephone number of the Principal and the petitioner No. 2 were mentioned for convenience of the public if required in connection with the school.

The Petitioner in this context, through RTI application has obtained the Registration Certificate of the Said Committee and also the application which was submitted by the Said Committee members for such registration, amongst other documents. One such document is an affidavit which was sworn by Dinaram Das, which states that he is the owner and Possessor of an Assam Type house covered by Dag No. 644, Patta No.1031 of Birubari and he has let out a 18x18 feet room for a monthly rent of Rs.1500/- to the City Montessori High School. Porichalana Committee for administration and official functions. The affidavit does not indicate the date of letting out of the room but it is sworn on 5th September 2022. The so called general meeting of the Committee shows that on 01.08.2022 a meeting was held where only 9 members were present. These documents clearly indicates that for ulterior motive and for extraneous considerations these persons have formed a committee by using the name of the City Montessori High School. The writ petitioner has reasons to believe that by taking advantage of the dispute raised by the original committee of the school with regard to allotment of the land of the Central Administrative Tribunal to the School, in exchange of its own land which refused to accept the same and that the so-called Porichalana Committee in convenience with the Revenue authorities have formed the committee to grab the land in the name of the school as the legitimate School Managing Committee under the Secretaryship of the Petitioner No. 2 had

refused to accept the land and had filed this writ petition challenging the process.

Copy of the Paper Publication dated 16.02.2023 is annexed as Annexure-23.

Copy of the RTI reply along with annexures furnished by SPIO Registrar of Firms and Societies, Assam is annexed as Annexure-24.

30C. That on 06.03.2023 the petitioner filed an FIR before the Paltan Baza Police Station in connection with the fraudulent activities of the respondent No.11 but surprisingly the case was not registered. Thereafter the petitioner wrote to the Commissioner of Police, Guwahati on 12.01.2024 regarding the non- registration of the case and seeking further action.

Copy of the FIR dated 06.03.2023 is annexed as Annexure-25

Copy of the Representation dated 12.01.2024 is annexed as Annexure-26

30D. That the respondent No. 10 and 11 more particularly respondent No.11 is the master mind behind the fraudulent activities in the name of the Porichalana Committee and the petitioner apprehends that these activities are in connivance with the Revenue authorities. A perusal of the handing over certificate of land, dated 23.09.2022 shows that the possession of the land has been handed over to the respondent no. 11, but the land has been allotted to the Principal of the school, who has not signed the handing over/taking over certificate of the land. Hence the petitioner begs to state that the City Montessori High School Porichalana Committee is a fake one and has no authority to run the affairs of the City Montessori High School.

Copy of the letter dated 23.09.2022 is annexed as Annexure-27

30E. That in terms of the Assam Non-Government Educational Institution (Regulation & Management) Act 2006, Section 12, the Managing Committee of such a school has to be constituted by having the following members:

Chairman

(a) The Chairman or the President or the Principal managing agent of the society or trust or the association of individuals or the person or individual establishing the non-government educational institution, shall be the Chairman of the Managing Committee.

Member(s)

(b) Head Master, the Principal of the institution, as the case may be:

(c) two representatives to be elected or selected by the Guardians from amongst themselves in a meeting to be convened by the School Authority in this behalf.

(d) Two Teachers/Lecturers of the institution elected or selected from amongst themselves:

(e) Any person who shall be educationist of the locality.

Member/ Member Secretary

(f) Two members to be nominated or elected by the society or trust or association of individuals society or trust or association of individuals or the individual establishing and running the institution out of which one shall be chosen as the Member Secretary.

The so-called Porichalana Committee neither consists of the Headmaster/ Principal, Guardian representatives, Teachers, Educationist and therefore the Managing Committee does not Conform to the requirement of Section 12 of the said Act. Further the constitution of the Managing Committee is a gross abuse of the process of law as some people in order to grab the alternative land which was refused by the petitioners formed this committee.

The TAI Committee consists of some names of people who could not be even traced out and it appears that some fictitious names has also been incorporated in the alleged Committee.

30F. That the act of the respondent No.11 in presenting himself as the Secretary of the City Montessori High School is in fact a case of impersonation as people having nothing to do with the school suddenly have cropped up and formed a Committee to take over the alternative land which was allotted to school but the School Managing Committee for reasons stated in the writ Petition had refused to accept. The petitioners had reasons to believe that officials of the Guwahati Revenue Circle and the Deputy Commissioner, Kamrup (M) are also involved in the fraudulent activities for which a proper investigation is required to be directed.

30G. That the petitioners reiterates that the School Management still rests with the petitioners and the fake Management Committee is the Respondent 10 and its so-called Secretary, the respondent No. 11 have nothing to do with the affairs of the City Montessori High School and have no authority or locus whatsoever to decide on any issues pertaining to the affairs of the City Montessori High School."

9. That further the following prayed may also allowed to be incorporated in the writ petition as prayed No IX and the existing prayer No IX may be allowed to be renumbered as X

"X. A writ in the nature of certiorari setting aside the handing over/taking over certificate dated 23.09.2022 by which the alternative land which has been handed over to the respondent No 11."

17. It is apparent that the writ petition has been filed challenging the action of the State respondents in allotting the subject land of the petitioners to the respondent No. 6. It appears that pending adjudication of the said writ petition, certain developments took place whereby a new Managing Committee has been constituted to run the affairs of the school in question by replacing the petitioner No. 2. Accordingly, the successors of the new Committee were allowed to intervene as party respondent Nos. 10 and 11 in the present writ proceeding.

18. It appears that the petitioners/applicants are disputing the constitution of the said new Committee and in view of the fact that an alternative land has been handed over to the new Committee for construction of school, which has been taken over by the Principal of the school vide handing over/taking over Certificate dated 23.09.2022, the applicant by way of amendment is seeking to bring the aforesaid subsequent developments on record and as well as is seeking to add a new relief as regards the challenge of the aforesaid handing over/taking over Certificate dated 23.09.2022 in the present writ petition.

19. Since the entire challenge contained in the writ petition revolves around the action of the State respondents in allotting the petitioner's land to the respondent No. 6, the subsequent developments whereby an alternative land is given to the alleged new Committee/respondent No. 11, the facts being related to the controversy raised in the writ petition, would certainly in the opinion of this Court, be essential and necessary for the effective adjudication of the writ petition. The contention of the respondents to the effect that the proposed amendment shall change the character of the writ petition is not acceptable, inasmuch as the subsequent developments which has the effect of diminishing the claim of the petitioners over the subject land, which is the subject matter of the writ petition, cannot be said to alter or substitute the cause of action of the writ petition. Thus, the subsequent developments have an important bearing over the effective determination and adjudication of the lis in hand and as such, the same is necessary to be brought on record. Allowing such

amendment shall not prejudice the respondents, inasmuch as, the respondents shall get an opportunity to rebut the same by way of filing counter affidavit.

20. As such, in the interest of justice, this Court allows the petitioners to amend the writ petition i.e. WP (C) No. 2956/2022 by incorporating the paragraphs mentioned in paragraph 8 of the instant application by incorporating the said paragraphs as 30A to 30G in the writ petition after paragraph 30 of the writ petition and also further allows the amendment to the 'prayer' made in the writ petition, by incorporating prayer IX as reflected in Paragraph 9 of the instant application by renumbering the existing prayer IX as X in the writ petition.

21. Ordered accordingly.

22. Let a copy of the amended writ petition be filed before the Registry of this Court within a period of ten days from today.

The Interlocutory Application stands allowed and disposed of.

JUDGE

Comparing Assistant