



2026:000:101854

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 13671 of 2024

State Council For Educational Research And
Another

.....Petitioner(s)

Versus

Alleged Society Radha Junior High School Badh,
The Existence Of Which Is Denied By The
Appellants Through Harswaroop Singh (Now
Deceased) And 2 Others

.....Respondent(s)

Counsel for Petitioner(s) : Tej Bhanu Pandey

Counsel for Respondent(s) : Km Preete, Manju Yadav, Shivam
Yadav

Reserved on 09.04.2026

Delivered on 05.05.2026

Court No. - 5

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Manish Goyal, learned Additional Advocate General assisted by Sri Sanjay Kumar Singh, learned Additional Chief Standing Counsel along with Sri T.B. Pandey, learned counsel for the plaintiff-petitioners and Sri Shashi Nandan, learned Senior Counsel assisted by Km. Preete and Ms. Manju Yadav, learned counsel for the defendant-respondents.

2. Since affidavits have been exchanged between the rival parties and they do not propose to file any further affidavit, the writ petition is being decided at the admission stage.

3. Briefly stated facts are that the plaintiff-petitioners instituted an Original Suit No. 67 of 1996 (State Council for Educational Research and Training and others Vs. Alleged Society Radha Junior High School, Bath, Mathura and two others) before the Court of Civil Judge (Senior Division), Mathura seeking a decree of permanent prohibitory injunction restraining the defendant-respondents from making interference in ownership and the possession of the suit property, details whereof which were mentioned in the foot of the plaint either themselves or through their representative and an injunction was also sought restraining the

defendant-respondents from damaging/destroying the constructions already in existence, premises of the suit property including the playground by raising any construction as well as grabbing the same forcefully. The said suit was verified on 23.01.1996. Along with the plaint, an application under Order 39 Rule 1 and 2 also came to be preferred being Paper No. 6Ga.

4. In the plaint, the case set up by the plaintiff-petitioners was that the suit property is situated in Mathura-Agra Highway and the same was owned by Radha Junior High School which at that point of time was in existence but subsequently, the same was closed and by way of a sale deed executed on 31.03.1958, the entire assets including building as well as open land etc. stood transferred in favour of Deeksha Vidyalaya which was subsequently taken over by the plaintiff-petitioners, State Council for Educational Research and Training, U.P., Lucknow. Thereafter, material alterations were made in the building of the DIET, playground and two other buildings as well as passage for approaching the main road was also constructed. It is also claimed that the plaintiff-petitioners do not recognize the alleged society being Radha Junior High School through its Manager Har Swaroop Singh and further so far as the defendant-respondent no. 2 and 3 Radha Raman and Kalyan Singh both sons of Kare Lal.

5. On being noticed, a written statement came to be filed on behalf of the defendant respondent no. 1 followed by a separate written statement on behalf of the defendant-respondents no. 2 and 3. On 24.01.2000, the Court of 1st Additional Civil Judge (Senior Division), Mathura in O.S. No. 67 of 1996 granted a temporary injunction order in favour of the plaintiff-petitioners restraining the defendant-respondents from making any construction over the demised property.

6. Aggrieved against the same, the defendant-respondent no. 1 preferred Misc. Appeal No. 15 of 2000 which came to be dismissed by virtue of the order dated 31.05.2000 by the Court of 1st Additional District Judge, Mathura. During the pendency of the said suit, an impleadment application under Order 1 Rule 10(2) came to be preferred by one Govind Singh, Ravindra Pal Singh, Shashi Pal Singh, Vikram Pal Singh and Chandra Shekhar Singh filed on 26.05.2017 for impleading them in the

O.S. No. 67 of 1996 which came to be rejected by the Court of Additional Civil Judge (Senior Division), Court No. 1, Mathura on 19.03.2018 against which a Civil Revision No. 57 of 2018 came to be preferred by Govind Singh and 4 others Vs. State Educational Research and Training Board, Lucknow and others before the Court of District Judge, Mathura which came to be rejected by the Additional District Judge, Court No. 6, Mathura on 09.01.2019. It is also the case of the plaintiff-petitioners that the defendant-respondents no. 2 and 3 preferred Misc. Appeal before the Court of Additional District and Sessions Judge, Court No. 6, Mathura (Radha Raman and Kalyan Vs. State Council of Educational Research and Training, Lucknow) against the injunction order dated 27.01.2000 by which Application 6Ga was allowed which also came to be dismissed on 04.08.2003.

7. Thereafter, the Original Suit No. 67 of 1996 came to be dismissed on 16.04.2019 by the Court of Additional Civil Judge (Senior Division), Court No. 1, Mathura.

8. Challenging the judgment and decree dated 14.06.2019 passed in O.S. No. 67 of 1996, the plaintiff-petitioners preferred Civil Appeal No. 72 of 2019 before the Court of District Judge, Mathura being State Council for Educational Research and Training and another Vs. Alleged Society Radha Junior High School and others. In the said Civil Appeal No. 72 of 2019, an interim order came to be passed in favour of the plaintiff-petitioners on 28.05.2019 staying the effect and operation of the judgment and decree dated 16.04.2019 passed in O.S. No. 67 of 1996.

9. During the pendency of the Civil Appeal No. 72 of 2019 on 06.04.2021, an Application, Paper No. 22A came to be preferred by the defendant-petitioners seeking amendment in the memo of appeal for mentioning deceased after the name of Har Swaroop Singh who happen to be the Manager insofar as the defendant in the O.S. No. 67 of 1996 is concerned and after paragraphs no. 25A inserted that since the term of the society, Radha Junior High School had lapsed, thus, the society as well as office bearers have no legal right over the property as well as society concerned and the defendant no. 1 society stands vested with the State Government. An objection came to be preferred by the defendant-respondent no. 1 society on 28.07.2021 being Paper No. 24C come up

with the stand that consequent to the demise of erstwhile Manager Har Swaroop Singh of the Society, Radha Junior High School now Govind Singh who happens to be his son is managing the society and the society, thus, neither by no stretch of imagination nor fiction of law, the properties stood vested with the State Government. The aforesaid application came up for consideration before the Court of Additional District and Sessions Judge, Court No. 10, Mathura on 08.11.2023 wherein the Paper No. 22Ka came to be rejected directing the plaintiff-petitioners who were appellant herein to get the substitution done of the authorized person as per Section 6 of the Societies Registration Act, 1860.

10. Thereafter, on 05.01.2024, an application being Paper No. 39C came to be filed by the plaintiff-petitioners before the Court of Additional District Judge, Mathura making a prayer therein that as substitution post death of Har Swaroop Singh alleged Manager of the society, Radha High School, Mathura, authorized person is to be made but in absence of the list of the office bearers and also the fact that the bye laws of the society has not been filed and the same is not available so a direction be issued to the defendants therein that either the same may be filed by the defendants or the same may be summoned. However, on an application so preferred by the defendant respondent society Paper No. 35C that since the order dated 08.11.2023 for substituting the deceased through an authorized person has not been done, thus, the suit be dismissed thereafter, on 21.02.2024, the Court of Additional District Judge, Court No. 10, Mathura passed an order to implead Govind Singh as the legal heir and the legal representative of late Har Swaroop Singh while fixing 07.03.2024. On 07.03.2024, an Application being Paper No. 44A was filed on behalf of the plaintiff-petitioners to recall the order dated 21.02.2024 and to determine the question as to the legal representative under Order 22 Rule 5 CPC but on an objection so preferred by the defendant-respondent society being Paper No. 46C, the Court of Additional District Judge, Court No. 10, Mathura rejected the application 44Ga while accepting the objection 46C directing the plaintiff-petitioners to comply with the order dated 21.02.2024 by 18.04.2024 while fixing 18.04.2024 as the next date.

11. On 24.05.2024, an adjournment was sought by the plaintiff-

petitioners, however, vide order dated 24.05.2024, regularized of adjournment vide application No. 51D came to be discarded and by virtue of the order dated 24.05.2024, the appeal was dismissed on account of non compliance of the order dated 08.11.2023, 21.02.2024 and 06.04.2024.

12. Questioning the order dated 08.11.2023, 21.02.2024, 06.04.2024 and 24.05.2024 passed by the Additional District Judge, Court No. 10, Mathura in Civil Appeal No. 72 of 2019, the present petition has been preferred.

13. This Court entertained the petition on 19.11.2024 and proceeded to pass the following orders.-

“Sri Shashi Nandan, learned Senior Counsel appearing for respondents has invited the attention of the Court to order passed on 17.09.2024 in Second Appeal No. 646 of 2024 wherein the petitioner's counsel had made a statement that he would be availing the remedy of filing petition under Article 227 of Constitution and would be withdrawing the second appeal filed by petitioner. According to counsel for respondent, petitioner has not withdrawn his second appeal and the matter is fixed for 03.12.2024.

Learned counsel for petitioners submits that he may be making a statement before the court concerned on 03.12.2024 for withdrawing the said appeal. He prays for adjournment of the matter for the day.

In view of request so made, put up this matter as fresh on 09.12.2024.

It is made clear that Court has not stayed the proceedings of the matter and executing court to proceed with execution of the case.”

14. Aggrieved against the non grant of interim protection by this Court, a SLP(C) No. 8227 of 2025 came to be instituted by the plaintiff-petitioners before the Hon'ble Apex Court in which on 01.04.2025, the following orders have been passed.-

“1. We find that the High Court was not justified in refusing to grant an interim order. The result of non-granting of the interim order would result in the demolition of the buildings used for educational purposes.

2. In that view of the matter, by consent of parties, we direct the status quo to be maintained for a period of three months from today.

3. We further request the High Court to decide the revision petition pending before it on its own merits, as expeditiously as possible and preferably within three months from today.

4. The special leave petition is, accordingly, disposed of.

5. Pending application(s), if any, shall stand disposed of."

15. This Court on 02.04.2026 proceeded to pass the following orders.-

"1. Prior to change of roster, which is w.e.f. 23.03.2026, on 10.03.2026, the following orders were passed:-

"1. On the request of the counsel for the private respondents, matter is adjourned.

2. Put up this matter on 25.3.2026 at 2.30 P.M."

2. Post change in the roster on 25.03.2026, the following orders have been passed:

"On the request of the Sri Manish Goyal, learned A.A.G. for the writ petitioner, list on 02.04.2026 under the same caption."

3. Though the matter was to be taken up today, post recess at 02:30 p.m., but Sri Manish Goyal, learned Addl. Advocate General, assisted by Sri T.B. Pandey, learned Standing Counsel had made a statement that he is preoccupied, as his argument is continuing in a Special Bench. Thus, he requested that the matter be taken up at 12:00 noon today. The same was gracefully accepted by Sri Shashi Nandan, learned Senior Counsel assisted by Km. Priti for the defendant-respondents. Thus the matter is being heard.

4. Sri Manish Goyal, learned Addl. Advocate General assisted by Sri T.B. Pandey, learned Standing Counsel for the original plaintiff-petitioner has sought to argue that though a suit bearing number "67 of 1996", came to be instituted before the Civil Judge (Sr. Div.), Mathura arraigning the defendant as alleged Society Radha Junior School, Mathura, but the existence of the said society was denied by the plaintiff-petitioners. Since the existence of the office bearers was under cloud and post dismissal of the said suit by the Trial Court,

a Civil Appeal No.72 of 2019, came to be instituted by the original plaintiff-petitioners/appellants in which on 28.05.2019, an interim protection was accorded, and thereafter, the alleged Manager of the Society, whose existence is associated being Har Swaroop Singh expired and thereafter, an application being Paper No.22 Ka came to be preferred by the plaintiff-petitioners seeking appropriate direction from Lower Appellate Court that consequent to the death of the Manager and expiry of the terms of the office bearers of the Society and in absence of a valid elected office bearer of the Society, the institution along with its all properties stood vested with the State.

5. Contention is that an objection came to be preferred by the defendant-respondent being paper no. 24Ga and the said application came to be decided by the appellate court on 08.11.2023 requiring the plaintiff-petitioners to prefer appropriate application for substituting the legal heir of Har Swaroop Singh.

6. As per the learned Addl. Advocate General, since the plaintiff-petitioners had no knowledge about the office bearers and they were not in possession of the bylaws of the Society so they could not prefer an appropriate application for substituting the legal heirs and thereafter, on 21.02.2024, an order came to be passed by the lower appellate court requiring the plaintiff-petitioners to substitute one Sri Govind Singh, who is alleged to be the legal heir and son of the deceased Har Swaroop Singh. Thereafter, a recall application came to be preferred by the plaintiff-petitioner being Application no.44Ka for recalling of the order dated 21.02.2024, which on opposition came to be rejected by virtue of the order dated 06.04.2024 requiring the plaintiff petitioners to move appropriate application for substitution. Since according to the learned Addl. Advocate General, the plaintiff-petitioners were not in possession of the bylaws and the exact details of the legal heirs of the deceased to be impleaded, thus they could not prefer a substitution application, however, on 24.05.2024, the lower appellate court had dismissed the appeal. Submission is that the appellate court has completely overlooked and failed to appreciate the import and the impact of the non-substitution of one of the deceased defendant, once there happens to be other defendant already on record.

7. Sri Manish Goyal, learned Addl. Advocate General, seeks adjournment for the day in order to substantiate the submission by way of judicial precedence.

He sought adjournment for tomorrow.

8. However, Sri Shashi Nandan, learned Senior Counsel for the defendant-respondents has requested that the matter be taken up on Monday.

9. Put up this case on 06.04.2026 at 12:00 noon, in the additional cause list.”

16. Sri Manish Goyal, learned Additional Advocate General assisted by Sri T.B. Pandey for the plaintiff-petitioners has sought to argue that the orders impugned in the present petition cannot be sustained for even a single moment. Elaborating the said submissions, it is contended that in the Original Suit No. 67 of 1996 so instituted by the plaintiff-petitioners before the Civil Judge (Senior Division), Mathura the alleged society Radha Junior High School, Mathura through Har Swaroop Singh son of Roshan Singh was made a defendant it along with one Radha Raman and Kalyan Singh son of Kare Singh who were creating obstacles and hindrances in the peaceful possession of the demised land/property in question. Though the suit came to be dismissed by virtue of the judgment and decree dated 16.04.2019 against which a Civil Appeal No. 72 of 2019 came to be preferred before the District Judge, Mathura, however, on gaining knowledge that the alleged Manager, Har Swaroop Singh had expired and since the society is not in existence and the term of the office bearers also came to an end, thus, an application came to be preferred on 06.04.2001 for adding the word 'deceased' after Har Swaroop Singh and since the society in question stood disbanded and was not in existence so the land and the property came to be vested with the State. However, on objection by the defendant, the said application came to be rejected on 08.11.2023 directing the defendant-petitioners to substitute the authorized person in terms of Section 6 of the Societies Registration Act, 1860. Submission is that plaintiff-petitioners were not in possession of the documents and records which could show that who was to be substituted and what was procedure and they were completely in dark about the contents of the provisions governing the bye laws on the said issue, thus, another application came to be preferred being Paper No. 39C seeking production of the bye laws of the society and the list of the office bearers from the defendants or summoning the same, however, the said application was rejected without considering the genuine request of the plaintiff-petitioners vide order dated 21.02.2024 specifically directing the

plaintiff-petitioners to implead Govind Singh son of Har Swaroop Singh. It is also contended that when an application for recalling the order dated 21.02.2024 came to be filed, the same has also been rejected on 06.04.2024 ultimately an adjournment being moved on 24.05.2024 for compliance of the order dated 08.11.2023, 21.02.2024 and 06.04.2024, the appeal itself has been rejected on 24.05.2024.

17. In a nutshell, the submission is that whatever might be the reasons which weighed with the court below they cannot be said to be in conformity with law particularly when it is not the case of the plaintiff-petitioners that they were deliberately avoiding hearing of the matter as the anxiety of the plaintiff-petitioners right from the very inception was/is that a proper party is to be substituted as a stranger cannot be made a party to prosecute the proceedings. Argument is that the approach so adopted by the court below is not only a harsh but it tantamounts to throttle the merits of the matter particularly when the plaintiff-petitioners have an iron cast case they are in possession of the property by virtue of the registered sale deed dated 31.03.1958. It is also being submitted on behalf of the plaintiff-petitioners that despite request being made on 05.01.2024 being Paper No. 39C on 07.03.2024 Paper No. 44A neither the list of the office bearers of the society nor the copy of the bye laws were provided and the request was rejected by the court below, thus, constrained with the said position, the plaintiff-petitioners had no option but to take recourse of approaching the Deputy Registrar, Firm Societies and Chits who on 04.03.2024 provided the list of the office bearers and the bye laws of the year dated 2023-24 of the society and the bye laws and thereafter, the adjournment was sought for doing necessary on 24.05.2024, however, before the same could be done, the appeal came to be dismissed on 24.05.2024 discarding the request for adjournment. It is also submitted that once a request have been made for determination under Order 22 Rule 5 of the CPC then the Court was enjoined to determine the said aspect and in failing to do so, the court below has committed a serious error.

18. Contention is to the extent that even otherwise in view of the relief so sought in the Original Suit No. 67 of 1996 even if there happens to be non substitution of the authorized person in terms of Section 6 of the Societies

Registration Act, 1860 then to suit would continue and would not abate in view of relief so sought against the defendant-respondents No. 2 and 3.

19. In order to buttress the said submissions, reliance has been placed upon the decision of Hon'ble Apex Court in **Bal Niketan Nursery School Vs. Kesari Prasad: 1987 (3) SCC 587, Suresh Chandra (Deceased) through legal heirs and others Vs. Parasram and others: 2025 SCC OnLine SC 1472, 2006 (1) SCC 75. Chinnasamy and others Vs. Ponni Charitable Trust: CRP No. 2353 of 2022 and CMP No. 12128 of 2022 Madras High Court** decided on 02.02.2023.

20. Sri Manish Goyal, learned Additional Advocate General on instructions submits that the this Court may impose any conditions which are in the interest so as to give an opportunity to the plaintiff-petitioners to contest the appeal on merits.

21. Countering the submission so made by the learned counsel for the plaintiff-petitioners Sri Shashi Nandan assisted by Km. Preete and Ms. Manju Yadav has submitted that none of the contentions so raised by the counsel for the plaintiff-petitioners has any legs to stand. Submission is that despite repeated orders passed from time to time, the plaintiff-petitioners did not chose to substitute the authorized person as per Section 6 of the Societies Registration Act, 1860.

22. Contention is that the plaintiff-petitioners had full knowledge about the election which took place of the society and the fact that Sri Govind Singh who happens to be the son of Har Swaroop Singh was elected as a Manager. He submits that though by virtue of the provisions contained under Section 7 of the Societies Registration Act, the suit is not to abate but one of the condition precedent for continuance of the proceedings that an authorized person is to be substituted in place of the deceased. Argument is that though the suit came to be dismissed on 16.04.2019 but post grant of interim protection by Civil Appeal No. 72 of 2019 on 28.05.2019 dilatory tactics had been adopted by the plaintiff-petitioners who are appellant before the court below. Thus, the Court had no option but to pass the order impugned in that regard. He submits that the relief so sought cannot be accorded to the plaintiff-petitioners particularly when

the jurisdiction which has been exercised at the instance of plaintiff-petitioners is under Article 227 and not 226 in that regard. Reliance has been placed upon the judgment in **M/s Garment Craft Vs. Prakash Chand Goel: 2022 LawSuit(SC) 34** and **Ouseph Mathai and others Vs. M. Abdul Khadir: (2002) 1 SCC 319**.

23. I have heard the submission so made across the bar and perused the record.

24. Facts are not in issue. It is not in dispute that in O.S. No. 67 of 1996 came to be instituted by the plaintiff-petitioners before the court of Civil Judge (Senior Division), Mathura based upon the fact that at an earlier point of time, Radha Junior High School, defendant no. 1 in the suit was in existence, however, it was closed and by way of a sale deed executed on 31.03.1958, the entire assets including building as well as open wall etc. were transferred in favour of Deeksha Vidyalaya which was taken over by the plaintiff-petitioners and thereafter, certain constructions were raised, however, the cause of action in filing the said suit arose when the defendants in the said suit started interfering with the possession. Thus, a suit for prohibitory injunction restraining permanently the defendants therein and the respondents herein came to be filed.

25. Importantly, in the said suit, the defendant no. 1 was arrayed as alleged society, Radha Junior High School whose existence was disputed through Har Swaroop Singh son of Roshan Singh whose existence is also disputed and Radha Raman and Kalyan Singh son of Kare Singh as defendant no. 2 and 3. The said suit came to be dismissed by virtue of the judgment and decree dated 16.04.2019 by the Court of Additional Civil Judge (Senior Division), Court No. 1, Mathura against which a Civil Appeal No. 72 of 2019 came to be preferred in which on 28.05.2019, interim protection was accorded to the plaintiff-petitioners by the court of Additional District Judge, Court No. 1, Mathura staying the effect and the operation of the judgment and decree dated 16.04.2019.

26. Notably, during the pendency of the O.S. No. 67 of 1996, an impleadment application came to be filed by Govind Singh, Ravindra Pal Singh, Shashi Pal Singh, Vikram Singh, Chandra Shekhar Singh seeking

impleadment in the O.S. No. 67 of 1996 on 26.05.2017 which was rejected by the court of Additional Civil Judge (Senior Division), Court No. 1, Mathura on 19.03.2018 against which a revision came to be preferred by Govind Singh, Ravindra Pal Singh, Shashi Pal Singh, Vikram Singh and Chandra Shekhar Singh being Civil Revision No. 57 of 2017 which came to be rejected by the Additional District and Sessions Judge, Mathura, Mathura on 09.01.2019. Moreover, during the pendency of the Civil Appeal No. 72 of 2019, the plaintiff-petitioners preferred an application on 06.04.2021 that since Har Swaroop Singh who happens to be Manager of the society had expired so deceased be written after it and as the society in question is no more in existence and there is no valid office bearers and the term whereof has come to an end so the property of the society itself stands vested by operation of law with the State Government. The said application was rightly rejected by the court below particularly when no such application is maintainable in the eyes of law insofar as it pertains to treating the property of the society to have vested with the State Government.

27. Now a stage stood arisen when a request was made by the plaintiff-petitioners seeking a direction from the court below requiring the defendants in the suit to produce the list of the office bearers of the society and the bye laws. The said application on objection has been rejected by virtue of the order dated 21.02.2024 while directing the plaintiff-petitioners to implead Govind Singh being the son of Har Swaroop Singh. Apparently, the order dated 08.11.2023 only directed the plaintiff-petitioners to substitute an authorized person under Section 6 of the Societies Registration Act but the order dated 21.02.2024 directs that Govind Singh son of Har Swaroop Singh is to be substituted. Pertinently, the order dated 21.02.2024 does not recite that the copy of the bye laws and the list of the office bearers stood furnished to the plaintiff-petitioners as requested by them. Then comes another application Paper No. 44A preferred by the plaintiff-petitioners for determination of the question as to the legal representative as per Order 22 Rule 5 since according to the plaintiff-petitioners they were not aware and they were completely dark about the contents and the position in the bye laws and the details of the office bearers of the society. The said application unfortunately also came

to be rejected on opposition vide order dated 06.04.2024 on the premise that it requires the plaintiff-petitioners to comply with the order dated 21.02.2024 by 18.04.2024 and ultimately adjournment so sought on 24.05.2024, the appeal was dismissed for non compliance of the earlier orders.

28. So far as the issues relating to societies are concerned they stand governed by an enactment by the name and the nomenclature of the Societies Registration Act, 1860. For ready reference, Sections 6 and 7 are quoted hereinunder.-

“6. Suits by and against societies.-

- Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion:

Provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal, secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

7. Suits not to abate.-

- No suit or proceeding in any civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.”

29. Section 6 provides that the society may sue or be sued in the name of the office bearers in that regard. Further Section 7 itself provides that no suit or proceedings before the Civil Court shall abate by reason of death or ceasing to fill death and the same shall continue in the name of or against the successor of such person. Thus, mere death would not be an ground ipso facto to abate the suit but the suit is to continue in the name

of or against the successors of that person.

30. There are certain redeeming features which are to be noticed firstly, the plaintiff-petitioners right from the very inception were disputing the existence of the society and also the office bearers including the Manager in that regard. Even, during the pendency of the civil suit before the trial court, the son of Har Swaroop Singh, Govind Singh along with four others preferred an application for impleading in the suit which came to be rejected on 19.03.2018 and thereafter, a Civil Revision No. 57 of 2018 was preferred by them which was also rejected. Thus, it can be very well said that there was a serious dispute regarding the existence of not only the society but also his office bearers. Secondly, though the order dated 08.11.2023 of the court below directs the plaintiff-petitioners to substitute authorized persons in terms of Section 6 of the Societies Registration Act but on a request being made to furnish the list of the office bearers and the bye laws, the court below on 21.02.2024 specifically directed the plaintiff-petitioners to implead Govind Singh being the son of Har Swaroop Singh deceased Manager. Though a further request is being made to furnish the details of the office bearers and the bye laws, however, again, an order is passed on 06.04.2024 for compliance of the order dated 21.02.2024 and on an adjournment being sought on 24.05.2024 to comply with the orders passed earlier on 21.02.2024 and 06.04.2024, the appeal is being dismissed.

31. Though on one hand, the plaintiff-petitioners alleged that in absence of furnishing of required documents they took recourse while seeking information from the office of the Deputy Registrar, Firms, Societies and Chits and they were provided information on 04.03.2024 and since they were in the process of getting the substitution done but the opportunity stood foreclosed while dismissing of the appeal.

32. From the aforesaid facts and circumstances, an irresistible conclusion stands drawn then it is not the case of the plaintiff-petitioners that they were unnecessarily lingering on the proceedings particularly when they were seeking furnishing of the required documents which according to them was necessary particularly when it is their case that they cannot implead or substitute a stranger in the proceedings in the light of the fact

that the existence of the society and its Manager was itself disputed as apparent from the plaint itself. The orders impugned indicate that the considerations which weighed with the court below was that the plaintiff-petitioners after obtaining the interim protection on 28.05.2019 were adopting dilatory tactics while lingering on the proceedings.

33. In **Bal Niketan Nursery School Vs. Kesari Prasad (1987) 3 SCC 587** the question which was before the Hon'ble Apex Court was whether a mistake while filing a suit through a wrong person would be fatal or not it was observed as under.-

“13. The last and final ground which needs setting out in some detail is that even if a rigid view is taken and it is to be held that the suits have not been instituted in the name of the proper person viz. The Society, the High Court should have seen that Order 1 Rule 10 has been expressly provided in the Civil Procedure Code to meet with such situations so that the rendering of justice is not hampered. The rule provides that if a suit has been instituted in the name of a wrong person as plaintiff or if there is a doubt as to whether the suit has been instituted in the name of the right plaintiff the court may, at any stage of the suit, if it is satisfied that the suit has been instituted due to a bona fide mistake and that is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the court thinks just. The scope and effect of Order 1 Rule 10 has been considered in numerous cases and there is a plethora of decision laying down the ratio that if the court is satisfied that a bona fide mistake has occurred in the filing of the suit in the name of the wrong person then the court should set right matters in exercise of its powers under Order 1 Rule 10 and promote the cause of justice. The courts have gone so far as to hold that even if the suit had been instituted in the name of a person who had no competence to file the suit, the courts should set right matters by ordering the addition or substitution of the proper plaintiff for ensuring the due dispensation of justice. We may only refer to a few decision in this behalf.”

34. Following the principles of aforesaid judgment and bearing in mind the fact that it is the case of the plaintiff-petitioners that they were not aware about the list of the office bearers and the bye laws and their request to furnish the said documents was not acceded to and the merits of

the case cannot be throttled on technicalities, thus, this Court in the interest of justice deems it appropriate to accord a final indulgence to the plaintiff-petitioners to prefer an appropriate application for substituting of an authorized person.

35. Accordingly, the petition is being decided in the following terms.-

(a) the orders dated 08.11.2023, 21.02.2024, 06.04.2024 and 24.05.2024 passed by A.D.J. Court No. 10, Mathura in Civil Appeal No. 72 of 2019 are set aside;

(b) the Civil Appeal No. 72 of 2019 is restored to its original number.

(c) the plaintiff-petitioners shall file an appropriate application for impleading the authorized person as per Section 6 of the Societies Registration Act, 1860 by **30.05.2026**;

(d) the court below shall expedite the proceedings of the Civil Appeal No. 72 of 2019;

(e) court below shall make endeavour to decide the appeal without granting unnecessary adjournments and, in case, adjournments are granted that the same should not be beyond two weeks at a stretch;

(f) the defendant-respondents are entitled to the cost of Rs. 25,000/-;

36. With the aforesaid observations, the petition stands **disposed of**.

(Vikas Budhwar,J.)

May 5, 2026
Rajesh