

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 5264 of 2009

1. Shri Om Sai Sewa Evam Vikas Samiti (Reg.#2187) now Shri Om Sai Mandir Nirman Evam Vikas Samiti Bhanpur, Baghbahara, Tah. Baghbahara, Distt. Mahasamund by Shri Chandramohan Pandey, s/o Late Fulu Prasad Pandey, Age 52 Yrs. R/o Ward # 18 Mahasamund (CG) Adhyaksha Shri Om Sai Sewa Evam Vikas Samiti Bhanpur, Baghbahara.

---- Petitioner

Versus

1. Tikamchand Nishaad, 38 Yrs. S/o Mohanlal Nishad, R/o Sunsuniya Chowk, Bhanpur, Baghbahara, Distt. Mahasamund.
2. Sanjay Sharma Aged About 46 Years S/o Rajkishor Sharma, R/o Bhanpur, Tah. & Distt. Mahasamund.
3. Radhika Prasad Dubey, 57 Years Supervisor Kushtha Rog Unmoolan Prathmik Swasthya Kendra, Baghbahara, Dehanibhatha, Mahasamund.
4. Preetamlal Aged About 55 Years S/o Ramnath Chandrakar Jhalap Road, Baghbahara, Distt. Mahasamund
5. Chotu @ Santkumar Sahu, 28 Years S/o Kalanath Sahu, R/o Sai Kirana Stores Sunsuniya Chowk Bhanpur, Tah. & Distt. Mahasamund.

---- Respondents

For Petitioner
For Respondent No.1 & 2
For Respondent No.3 to 5.

Shri Raja Sharma, Advocate
Shri M.V. Paranjpe, Advocate
Shri A.K. Pandey, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

12/10/2015

1. On 24.10.2008 a suit for permanent injunction was filed by the plaintiff/petitioner society through its President Shri Chandramohan Pandey. During the pendency of civil suit, on 10.2.2009 the plaintiff/petitioner filed an application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 stating therein that though the petitioner-society was earlier registered in the name of 'Shri Om Sai Sewa Evam Vikas Samiti, Bhanpur, Baghbahara' but

subsequently changed its name to “Shri Om Sai Mandir Nirman Evam Vikas Samiti, Bhanpur, Baghbahra”. It has been further stated that due to oversight, the suit for permanent injunction has been filed in the name of 'Shri Om Sai Sewa Evam Vikas Samiti, Bhanpur, Baghbahara” instead of “Shri Om Sai Mandir Nirman Evam Vikas Samiti” and therefore the plaintiff/petitioner be permitted to incorporate amendment in the plaint. However, the trial Court dismissed the said application vide order impugned and it is this order which has been challenged by the plaintiff/petitioner in this petition.

2. Learned counsel for the petitioner submits that as initial registration of the petitioner society was in the name of 'Shri Om Sai Sewa Evam Vikas Samiti, Bhanpur, Baghbahara”, therefore, no harm would be caused to any of the parties if the amendment, as sought, in the cause title of plaint is allowed to be incorporated. He further submits that if the defendants/respondents have any objection, they can adduce evidence to this effect at an appropriate stage.
3. On the other hand, supporting the impugned order it has been argued by counsel for the respondents that the order impugned is in accordance with law.
4. I have heard learned counsel for the parties and perused the impugned order and other documents.
5. The documents annexed with the petition reveal that on 6.8.2008 the petitioner society was registered in the name of 'Shri Om Sai Sewa Evam Vikas Samiti, Bhanpur, Baghbahara' and thereafter on 5.9.2008 name of the petitioner society has been changed to 'Shri Om Sai Mandir Nirman Evam Vikas Samiti, Bhanpur, Baghbahara”. Therefore, considering the submission of counsel for the plaintiff/petitioner that due to oversight the suit could not be filed in the name of 'Shri Om Sai Mandir Nirman Evam Vikas

Samiti', the amendment application, as filed by the petitioner, is hereby allowed. The trial Court concerned is directed to permit the plaintiff/petitioner to carry out the necessary amendment in the plaint.

6. As the stay is operating in favour of the plaintiff/petitioner since the year 2009 and the suit pertains to the year of 2008, the trial Court is directed to make all endeavours to dispose of the suit as early as possible, preferably within a period of one year from the next date of hearing. It would be the duty of parties to apprise the trial Court about the passing of this order. The Registrar (Judicial) is also directed to communicate this order to the concerned District Judge and the trial Court.

7. Accordingly, the writ petition stands disposed of.

Sd/-
(Pritinker Diwaker)
Judge

roshan