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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7517/2012**

PRITAM SINGH

..... Petitioner

Through: Mr Atul Nigam, Mr Gaurav Prakash &
Ms Priya Pathania, Advs.

versus

REGISTRAR OF FIRM AND SOCIETY

AND ANR

..... Respondents

Through: Ms Purnima Maheshwari, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **09.04.2015**

1. This writ petition seeks quashing of order dated 27.09.2012 passed by the Registrar of Societies (ROS)/ SDM (HQ)/District East, Delhi. The controversy, in short, is as follows:

2. By virtue of the impugned order, the Certification of Registration (in short COR) of the society bearing title: Gurudwara Singh Sabha Dera Baba Wadbhag Singh (in short Wadbhag Singh society), has been cancelled. The said society claims to reside in and operate from the address: 9-11, Shankar Vihar, Vikas Marg, Delhi – 110 092 (hereafter referred to as 9-11, Shankar Vihar property). The application for registration was made by the said society in 2011-2012.

2.1 At the time of registration requisite documents, relevant for registration, were supplied by its president, Mr Pritam Singh, i.e., the petitioner herein. Consequent thereto, a COR was issued by the ROS. This COR is dated 05.03.2012.

2.2 It appears that the ROS conducted an inquiry based on a

representation made by another society by the name of Gurdwara Siri Guru Singh Sabha (in short GSGSS). This society, i.e., GSGSS, was registered in 1990 and was accorded a registration no. S-20892/1990. The peculiarity of this matter is that, this society also claims to reside and operate from the same premises at which the earlier society, i.e., Wadbagh Singh society, claims to reside and operate; that is, 9-11, Shankar Vihar property.

2.3 The record shows that upon an inquiry being carried out by the ROS, it came to light that in respect of Wadbagh Singh society, a lease deed dated 08.02.2012 has been executed by the Delhi Development Authority (DDA). The ROS, therefore, came to the conclusion that the Wadbagh Singh society had played a fraud upon him by claiming that it operated from 9-11, Shankar Vihar property.

3. The petitioner, as indicated above, who was at the relevant time, the president of the said society, has approached this court under Article 226 of the Constitution to assail the order dated 27.09.2012, on a short ground, which is that, ROS had no power under the Societies Registration Act, 1860 (in short SRA), to cancel the COR accorded in favour of the Wadbagh Singh society.

4. Ms Maheshwari, who appears for respondent no.1, i.e., the ROS, is unable to show, any provision, under the SRA which would confer power on the ROS to cancel a COR issued by him.

4.1 It is, on perusal of the provisions of the SRA, that it is discovered, that the, power to cancel registration accorded or, certificate of renewal issued, on the ground that it has been obtained by misrepresentation or fraud - is available, under a State Amendment carried out by the State of U.P. The relevant provision inserted in that behalf in the SRA is, Section 12D(1)(c).

4.2 Quite clearly, this power is not available to the ROS vis-a-vis

societies registered in Delhi.

5. Ms Maheshwari, however, seeks to sustain the order by advancing the following submissions.

5.1 It is the learned counsel's submission that since the ROS granted the registration, he would impliedly have the power to withdraw and/or cancel the same in view of the fraud employed by the Wadbagh Singh society. Learned counsel contends that since fraud vitiates every action, the registration accorded by the ROS, can also be cancelled and/or withdrawn.

5.2 Ms Maheshwari says that, essentially, the registration, in this case, has been cancelled on the ground that the Wadbagh Singh society was unable to establish its ownership in the premises referred to as : 9-11, Shankar Vihar property. In this connection, Ms Maheshwari goes on to submit that the said society had also claimed ownership of the abutting land being, plot no. 12, which is, a vacant nazul land.

6. Having heard the learned counsels for the parties, I am of the view that the impugned order passed by the ROS cannot be sustained for the following reasons:

(i) Clearly, there is no power available with the ROS to cancel the registration.

(ii) There is nothing brought to my notice, which would show that the documents furnished at the time when the application for registration was made by the Wadbagh Singh society were fraught with any defect.

6.1 The only ground on which the COR appears to have been cancelled is, that, the Wadbagh Singh society, had not been able to show that it was the owner of 9-11, Shankar Vihar property or the land abutting the said property, which is referred to as plot no.12.

6.2. In my opinion, this aspect of the matter can have no bearing on the

registration of the Wadbhag Singh society. It is quite clear that there are two factions which are claiming ownership in the aforementioned immovable property, and that, one of them, in 2012, obtained a lease deed in its favour, which has been executed by the DDA.

7. A perusal of the impugned order, in this context, would show that the petitioner claims that he has been residing in the aforementioned property, since 1960. In so far as plot no. 12 is concerned, it is not even the case of GSGSS that it owns the said land.

7.1 Ms Maheshwari has not been able to demonstrate from the provisions of the SRA or the Rules framed thereunder, anything, which would show that two societies cannot be housed in the same premises.

7.2 As to which faction can claim ownership of the immovable properties, referred to above, does not fall within the domain or jurisdiction of the ROS.

8. Therefore, the only logical conclusion which I can reach in the matter, is that, the impugned order will have to be set aside. It is ordered accordingly.

9. Needless to say, setting aside of the impugned order will not confer any right of ownership in the aforementioned immovable properties in the Wadbhag Singh society. The rights of the other faction in that behalf are not touched by any observations recorded hereinabove by me.

10. The writ petition is, accordingly, disposed of.

RAJIV SHAKDHER, J

APRIL 09, 2015

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