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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3490-2014 [O&M]

Date of Decision : May 10th, 2016

Patel Memorial Management Society [Regd.]

.... Petitioner

Versus

Raj Kumar and others.

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present Mr. Gurminder Singh, Senior Advocate,
with Mr. Abhinav Oberoi, Advocate,
for the petitioners.

Mr. Arun Jain, Senior Advocate,
with Mr. R. Kartikeya, Advocate,
for respondent No.1.

Mr. V.K.Jindal, Senior Advocate,
with Mr. Amandeep Sheoran, Advocate,
for respondents No. 2 to 17.

Mr. Pawan Kumar, Senior Advocate,
with Mr. Abhimanyu Batra, Advocate,
for the applicants.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for setting aside orders dated 14.1.2014 [Annexure P/16] and 21.3.2014 [Annexure P/17] passed by Additional Civil Judge, Rajpura and Additional District & Sessions Judge, Patiala respectively whereby both

the Courts below decided the application under Order 39 Rule 1 and 2 CPC thereby restraining the present petitioner from inducting new members of defendant No.1 illegally and unlawfully till the final decision of the case.

2. Relevant facts for the purpose of decision of present petition; that the petitioner – Society is having total strength of 75 members and the matter regarding induction of new members remained pending since long. On 28.03.2010, the General Body of the society referred the matter to Criteria Committee for induction of new members. For the purpose of induction of new members, meeting of General Body was called on 22.12.2013 on the basis of notice dated 7.12.2013 and the agenda circulated for that purpose. But there was no item regarding induction of the new members of the Society. However, in the meeting held on 22.12.2013, the members present therein took up the matter regarding induction of new members without informing other members regarding the agenda which is against the principles of natural justice and against the settled provisions of law governing the Society.

3. Mr. Gurminder Singh, learned senior counsel for the petitioner submitted that in the meeting of General Body held on 13.02.2011, the report submitted by the Criteria Committee was rejected and the power was given to the President to induct the new members. Respondent No.1, Raj Kumar himself was signatory to the resolution dated 19.10.2010 and 13.02.2011.

4. Learned senior counsel for the petitioner further submitted that in the General Body meeting held on 22.12.2013, 39 members were present

and it was resolved to induct 16 new members. The coram was complete. The meeting was legal as the same was duly convened after issuance of agenda and the orders, Annexure P/16 and P/17 passed by the Courts below are liable to be set-aside.

5. While arguing on this point, Mr. Arun Jain, learned senior counsel for the respondent No.1 submitted that the petitioner-Society had committed illegality while holding the meeting on 22.12.2013 and taking the matter regarding induction of new members without there being any agenda. Learned counsel further submitted that this was such a controversial matter which remained pending since long. On 23.09.2002, it was decided that such an item regarding induction of new members could not be taken up without there being proper agenda on this point. More so, Devki Nandan, respondent No. 19 himself had filed a civil suit that Criteria Committee report is to be implemented and after elections and on his appointment as President, he had withdrawn the said civil suit. At any rate, there was no agenda for discussion in the meeting of General Body held on 22.12.2013 and even 20 members were not present in the said meeting. They were not aware of any such proceedings to be taken place on 22.12.2013 and any action or resolution passed in the said meeting regarding induction of new member is illegal and both the Courts below have already dealt with the matter and the present petition deserves to be dismissed being devoid of any merit.

6. Mr. V.K.Jindal, learned senior counsel [representing the Interveners – 16 members inducted on the basis of meeting dated 22.12.2013] submitted that the members have been inducted by the

General Body and they have not been heard in the present litigation and no such order should be passed by this Court at the back of the applicants.

7. Having considered the submissions of learned counsel for the parties and appraisal of the record, this Court is of the considered view that both the Courts below have already appreciated the entire controversy and recorded concurrent findings that there was no agenda for induction of new members in the General Body meeting held on 22.12.2013. Out of 59 members of the General Body, only 39 were present and the remaining 20 members were not even aware that item regarding induction of new members was to be taken up in the General Body meeting as no such agenda was circulated to the members. This fact assumes much more importance because the issue regarding induction of members remained controversial since long and it was decided by the Governing Body that matter regarding induction of new members shall not be taken up without there being any such agenda.

8. In view of the above, the induction of new members without there being any agenda and that too during the pendency of the litigation, cannot be considered to be legal. Both the Courts below have already dealt with the matter vide orders, Annexure P/16 and P/17, and the same do not call for any interference. As regards to the plea taken by learned Senior Advocate representing interveners, the matter regarding status of 16 newly inducted members shall be decided by the Court below on the basis of evidence to be led by the parties during the trial. At any rate, as the induction of 16 members has been done without there being any agenda, issued for the purpose and during the pendency of the litigation, the trial

Court shall consider this aspect while deciding the main suit on the basis of evidence to be led by the parties.

9. With the above observations, the present petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 10th, 2016
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