

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

C.R. No.668 of 2016

Date of Decision.13.12.2016

Managing Committee, Janta High School

.....Petitioner

Vs

Janta High School and others

.....Respondents

Present: Mr. Ajaivir Singh, Advocate
for the petitioner.

Mr. S.S. Deol, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-applicant is aggrieved of the dismissal of the application seeking impleadment on the premise that the Managing Committee was not impleaded in the suit. Only one Amarjit Singh, resident of village Jandu Singha has been impleaded, without even giving the name of the committee.

The suit has been filed by Gurpal Jit Singh, President of the School Management Committee. However, Amarjit Singh, during the pendency of the suit had apparently colluded with the plaintiffs by suffering a statement on 16.08.2014 for decretal of the suit as the challenge in the suit is to the order dated 22.06.2011 passed by the Director, Public Instructions Secondary Education. It is in this backdrop of the matter, the application was filed but the trial Court erroneously dismissed the same. The suit is listed for plaintiffs' witness. An application at the instance of the plaintiffs by invoking the provisions of Order 12 Rule 6 CPC has been moved for passing the judgment on the basis of admission. However, there is no

concession given to the party who has opposed the order.

Per contra, Mr. S.S. Deol, learned counsel appearing for the respondents submits that the suit had been properly framed as Amarjit Singh was the member of the committee. The petitioners herein by taking the aid of Resolution dated 31.05.2014 moved no confidence motion against Amarjit Singh, though Amarjit Singh was Member of the Committee. There is no compliance to the terms and conditions of the memorandum regarding attendance of three consecutive meetings etc. The plaintiff is the *dominus litus*. No person can be allowed to be impleaded as party without the wish of the plaintiff. Even the application is also not properly worded and therefore, rightly so, has been dismissed.

I have heard learned counsel for the parties, appraised the paper book and of the view that the provisions of Order 7 Rule 1 CPC, looking at the frame of the suit particularly the memo of parties, have not been adhered to. For the sake of brevity, the memorandum of parties are reproduced as under:-

“In the Court of Civil Judge, Senior Division, Jalandhar

- 1. Janta High School, Jandu Singha District Jalandhar through its President Gurpal Jit Singh.*
- 2. Gurpal Jit Singh son of late Sh. Baldev Singh, President School Management Committee, Janta High School Jandu Singha, District Jalandhar.*

.....Plaintiffs

versus

- 1. Amarjit Singh son of not known, resident of village Jandu Singha, District Jalandhar.*
- 2. State of Punjab through its Principal Secretary Department of Education (Schools) Mini Secretariat, Sector 9, Chandigarh.*
- 3. Director, Public Instructions (Secondary Education), Punjab, SCO No.95-97, Sector 17-D, Chandigarh.*

4. *Circle Education Officer, Jalandhar, Punjab.*
5. *District Education Officer (S.E.), Jalandhar, Punjab.*
6. *Sub Divisional Magistrate, Division No.2, Jalandhar.”*

Amarjit Singh has been impleaded without even disclosing his father's name, much less, his capacity. Neither has been shown to be impleaded as member of the society or otherwise, whereas on the contrary, the applicant-petitioner/Managing Committee is the juristic person and authorized signatory, though the suit is filed by the President challenging the aforementioned order of the Director holding the election. Perhaps the filing of the suit is an attempt to continue as President of the Management Committee for intervening period without holding election.

I am of the view that impleadment of the Managing Committee in such situation is essential and necessary. The principle of *dominus litus* would not come into play. This aspect has totally not been taken care of by the court below. Resultantly, the order under challenge is hereby set aside and the application for impleadment is allowed. The Managing Committee is ordered to be impleaded as defendant No.7.

The revision petition is allowed.

(AMIT RAWAL)
JUDGE

December 13, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No