

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SAO No. 24 of 2013(O&M)
DECIDED ON: August 09, 2017

RT. REV. ROCKUS B. SANDHU

.....APPELLANT..

VERSUS

CHURCH OF NORTH INDIA AND ORS.

.....RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Teevar Sharma, Advocate and
Mr. Naveen Gupta, Advocate,
for the appellant.

Mr. G.S. Bhatia, Advocate for respondents No. 1 to 3 & 21.

Mr. P.S. Sidana, Advocate for respondents No. 6 & 19.

Mr. R.S. Bal, Advocate for respondent No.70.

JASPAL SINGH, J.

CM-9023-CII-2017

Allowed as prayed for.

Main case

Disheartened by order dated 30.03.2013 passed by Additional Judge, Amritsar whereby an application moved under Order XXII Rule 10 read with Section 151 of the Code of Civil Procedure (for brevity "Code") by the appellant-Rt. Rev. Rockus B. Sandhu (Bishop of Amritsar) for impleading/assigning him as appellant No.3 has been dismissed as well as

another order dated 30.03.2013 passed by Additional District Judge, Amritsar vide which appeal filed by appellant No.1-The Amritsar Diocesan Trust Association, Amritsar (hereinafter referred to as "ADTA") has been dismissed having been abated, the appellant has preferred the instant appeal.

2. Succinctly, the facts giving rise to the instant appeal are that appellant-ADTA preferred a suit for permanent injunction against the Church of North India and others, restraining respondents-defendants from interfering in any manner, selling, disposing of, realizing rentals, managing, taking possession, alienating any of the property in any manner, institutes, hospitals, churches etc. belonging to the appellant-ADTA, fully detailed and described in the head note of the plaint as well as all for rendition of accounts of the profits made by defendants while managing the aforesaid institutes and properties. The said suit was dismissed by the Id. trial court vide judgment and decree dated 16.08.1988 by Additional Senior Sub Judge, Amritsar.

3. Aggrieved against the aforesaid judgment and decree dated 16.08.1988, appellant-ADTA through its Secretary Mr. David Paul and Rt. Rev. Babu Masih, who was Bishop of Amritsar and also ex-officio Chairman of the trust, preferred an appeal before this Court (arrayed as appellant No.1). During the pendency of aforesaid appeal before this Court, an application under Order XXII Rule 10 read with Section 151 of the Code was moved by the present appellant-Rt.Rev. Rockus B. Sandhu for impleading as Bishop of appellant-Trust as Rt. Rev. Babu Masih was taken away by the nature on 30.11.2003 during the pendency of appeal before this Court and in his place Rt. Rev. Rockus B Sandhu was appointed as Bishop of Amritsar and he being Bishop of Amritar of Anglican Church has also become the ex-officio Chairman of the

ADTA. After the demise of Rt. Rev. Babu Masih, interest stood devolved upon Rt. Rev. Rockus B Sandhu, who has been appointed as Bishop of Amritsar and has become the Chairman of the Trust and has also stepped into his shoes as such he became entitled to be impleaded assigned/substituted as appellant No.3 in place of deceased appellant No.3 Rt. Rev. Babu Masih.

4. While challenging the impugned orders dated 30.03.2013 passed by Additional District Judge, Amritsar, it has been ebulliently argued by the learned counsel for the appellant that the same are absolutely against the various documents available on file as well as settled canons of law. Mis-appreciation of evidence as well as legal proposition has resulted into miscarriage of justice. In fact, Rt. Rev. Rockus B Sandhu being the Bishop as well as ex-officio Chairman of Trust is a necessary party for the effective and proper adjudication of the matter in controversy between the parties as well as to enable the court to decide the controversy in a effective and judicious manner. Moreover, an application under Order XXII Rule 10 Read with Section 151 CPC was filed for impleading Rt. Rev. Rockus B Sandhu as appellant No.3 during the pendency of appeal in this Court but application along with record of the appeal was transmitted to the District Judge, Amritsar in view of the Punjab Courts (Amendment) Ordinance No.11/06 issued vide notification dated 26.08.2006, which is illegal and against the settled proposition of law. The application has been dismissed by Id. Additional District Judge, Amritsar. Otherwise also, it is amply proved on record that Rt. Rev. Rockus B. Sandhu has been appointed as Bishop of Amritsar of Anglican Church and became the ex-officio Chairman of Society-ADTA. As such, his impleadment in place of Rt. Rev. Babu Masih is

essential. Thus, the impugned orders dated 30.03.2013 is not sustainable in the eyes of law and is liable to be set aside by way of acceptance of instant appeal and consequent to the setting aside of the aforesaid order, another order dated 30.03.2013 regarding abatement of appeal would also stand quashed/set aside.

5. On the other hand, learned counsel for respondents No. 1 to 3 and 21 Mr. G.S. Bhatia, Advocate while controverting the submissions put forth by learned counsel for the appellant has submitted that Rt. Rev. Rockus B Sandhu has nothing to do either with Church of North India or the properties belonging to it. In fact, Rt. Rev. Rockus B Sandhu was never appointed as Diocesan or ex-officio Chairman of the ADTA or Bishop of Church of North India. The instant appeal is nothing but an abuse of process of court and law. An application with identical prayer was moved in this Court under Order XXII Rule 10 of the Code dated 21.08.2006 in RFA No.2567 of 1992. The said application was returned to the appellant by this Court with direction to file the same before the Court of Id. District Judge/Additional District Judge, Amritsar where the appeal already stood transferred, consequent upon the amendment of Punjab Courts Act. Moreover, instant application was moved by Rt. Rev. Rockus B Sandhu after inordinate delay of 32 months, that too, at a stage when appeal was matured for its arguments and disposal. Undisputably, Babu Masih expired in the year 2003, but he has been held neither to be the Chairman of ADTA nor the Bishop of Diocese of Amritsar. Thus, instant application under Order XXII Rule 10 of the Code preferred by Rt. Rev. Rockus B Sandhu for substituting him as appellant in place of Rt. Rev. Babu Masih is incompetent and not maintainable. As interest in the affairs of ADTA never vested in Rt. Rev. Babu Masih,

substitution in his place is not legally permissible. Moreover, vide order dated 21.04.1988 passed in civil suit titled as “*Amritsar Diocesan Trust Association v. Victor Som Nath etc.*”, Babu Masih was already restrained from claiming himself to be the office bearer of ADTA. As observed in the judgment dated 16.08.1988 passed by Additional Senior Sub Judge, Amritsar, the question of Rt. Rev. Rockus B Sandhu having been appointed by Anglican Church of India does not arise at all as no such Church ever existed. Such an observation has already been made by the Additional Senior Sub Judge, Amritsar vide his judgment dated 16.08.1988 against which, an appeal was pending before this Court which was transmitted to the District Judge, Amritsar. In fact, church of North India is successor of Church of India, Pakistan, Burma and Cylon and the properties vesting in ADTA are held by it for the benefit of Church of North India. ADTA is not in any way associated with alleged non-existent Anglican Church of India. Otherwise also, there was no occasion for consecration of Rt. Rev. Rockus B Sandhu by Anglican Church of India as Chairman of ADTA. Moreover, Anglican Church of India is not a party to the cause pending in appeal. Under the constitution of ADTA, Bishop of Diocese of Amritsar is ex-officio Chairman of ADTA. Such Diocese of Amritsar earlier being a Diocese of Church of India, Pakistan, Burma and Cylon is now Diocese of Church of North India after union of churches at Nagpur in 1970, as successor of Church of India, Pakistan, Burma and Cylon.

6. Learned counsel for respondents No.1 to 3 and 21 has further urged that Rt. Rev. Rockus B Sandhu is also incompetent of holding the office of Bishop or Chairman on account of the reason that he is proclaimed offender in a

number of criminal cases and cannot be appointed as such. Not only this, even David Paul is also not competent to prefer an appeal as he was held not to be the Secretary of ADTA. Both appellants David Paul and Rt. Rev. Babu Masih having been under the order of restraint from holding themselves out of office bearers of ADTA vide order dated 21.04.1988 referred to above. David Paul has nothing to do with the ADTA. He was never appointed as Secretary of it. In fact, ADTA is functioning lawfully and successfully through its Chairman Rt. Rev. P.K. Samantha Roy, who has been held to be the Chairman by the trial court as well as Secretary Sadrick Sohan Lal assisted by members of Managing Committee. Since, Rt. Rev. Babu Masih was never appointed or remained Chairman of ADTA, thus, no interest could be said to have devolved upon Rt. Rev. Rockus B. Sandhu, who has not been appointed as Bishop of Diocese of Amrtisar (Church of North India). Similarly, he also cannot be considered to be the Chairman of ADTA.

7. While concluding his arguments, it has been submitted by learned counsel for respondents No.1 to 3 and 21 that impleadment of Rt. Rev. Rockus B Sandhu has rightly been declined by the lower appellate court.

8. While refuting the various submissions put forth by learned counsel for the appellant, learned counsel for respondents No. 6 and 19, Mr. P.S. Sidana, Advocate has forcefully argued that neither the present application nor the appeal is legally maintainable as no appeal has been filed against the judgment and decree dated 16.08.1988 passed by trial court, in which, application preferred by David Paul and Rt. Rev. Babu Masih has been dismissed under Order XXII Rule 10 of the Code. Though, the said order is appealable as per

order 43 Rule 1 sub rule (L) read with Section 104 of the Code but no appeal has since been filed either by David Paul or Babu Masih. Moreover, neither David Paul nor Babu Masih was party to the suit and they have never challenged the impugned order whereby an application under Order XXII Rule 10 of the Code has been dismissed. Learned counsel further submitted that Anglican Church was not a party either to the suit or appeal. Moreover, it has been specifically held by the trial court in para No.23 of its judgment that Anglican Church is not in existence since 1927. Since, David Paul and Babu Masih belong to Anglican Church, as such, they cannot become party to the suit and it was one of the grounds taken by the trial court to reject the applications. Likewise, Rockus B Sandhu, the present applicant-appellant also belongs to Anglican Church which was not a party to the suit. Hence, cannot change the title of the original suit. Thus, in any case, when Babu Masih cannot become party to the suit, the impleadment of Rockus B Sandhu as appellant No.3 is permissible. Otherwise also, since, Rockus B Sandhu has already been declared proclaimed offender in a number of cases vide different orders, the copies of the which have been placed on record, he cannot be appointed as Diocesan as per Canons and Rules of CIPBC. Even, he has already been convicted by Special Judge, Pathankot in a corruption and forgery case. Thus, taking the case of the appellant from any of the angles, there is no merit in it. Impugned orders dated 30.03.2013 passed by Additional District Judge, Amritsar are legal and justified and do not call for any any interference.

9. Mr. R.S. Bal, Advocate, representing respondent No.70-David Paul has submitted that in fact, first appeal before this Court was filed by David Paul

but in view of the amendment of the Punjab Courts (Amendment) Ordinance No.11/06 issued vide notification dated 28.06.2006, it was transferred to the District Judge. Two different applications were filed, one by Mehraj Masih under Order 1 Rule 10 of the Code for his impleadment and another by Rt. Rev. Rockus B. Sandhu under Order XXII Rule 10 of the Code. Both these application were dismissed vide two different orders dated 30.03.2013 by Additional District Judge, Amritsar. Thus, in view of dismissal of both these applications, the earlier appeal filed by David Paul-respondent No.70 along with previous Bishop Babu Masih stood abated. Moreover, the present appellant Rt. Rev. Rockus B. Sandhu only moved an application in SAO No. 24 of 2013 to set aside the order passed on his application under Order XXII Rule 10 of the Code. However, no appeal was preferred by Mehraj Masih qua dismissal of application under Order I Rule 10 of the Code. The dismissal of the application preferred by Mehraj Masih has attained finality. He was also never appointed or considered to be the Secretary of ADTA till his demise on 01.08.2014 by the Courts. As far as Rt. Rev. Rockus B Sandhu is concerned, he was never appointed as Bishop of Anglican Church or Chairman of ADTA. Otherwise also, he is a proclaimed offender and cannot be appointed under the Rules and instructions. David Paul was the Secretary of ADTA, who was never removed from the said post by its Chairman i.e. Rockus B Sandhu and Mehraj Masih elected cum appointed as Secretary as alleged by the appellant. However, when applications moved by Rockus B. Sandhu and Mehraj Masih have already been dismissed by the Additional District Judge, Amritsar on 30.03.2013, no one can be appointed in place of Mehraj Masih as his successor. Furthermore, when the

courts have till date not considered Rockus B Sandhu as Chairman of ADTA, how can he appoint anybody as Secretary of the Trust, is beyond imagination. Although, the courts have never considered Rockus B Sandhu as Bishop-cum-Chairman of Anglican Church, who was allegedly appointed as such by Traditional Anglican Communion (TAC) vide letter dated 06.08.2006 (Annexure A-6) issued by Samuel P. Prakash, Metropolitan of India, yet, he stood removed from the said post by the same authority i.e. TAC, as is evident from letter Annexure A-5 annexed with CM 9023 of 2017 filed by David Paul. After the removal of Rockus B. Sandhu, Rev Shaukat Bhatti was authorised to act as Bishop's Commissary (temporary Bishop), who in the capacity of Chairman of ADTA, reappointed David Paul as Secretary of ADTA, vide resolution dated 04.02.2013. Moreover, appellant Rockus B Sandhu on one hand is claiming himself to be the Bishop cum Chairman of Amritsar Diocesan i.e. the parent body of ADTA. On the other hand, he is claiming himself to be the Bishop-cum-Chairman of Delhi Diocesan. Not only this, he also asserting himself to be the Metropolitan of Anglican Church of India having been appointed by Episcopal Synod of Anglican Church of India. In addition to it, he is also claiming himself to be Metropolitan of India and Bishop-cum-Chairman of Delhi Diocesan vide resolution dated 09.07.2015 as per provision of chapter 38 of Constitution of Canon and Rules of Church of India, Pakistan Burma and Ceylon (for short, "CIPBC") i.e. Anglican Church of India, on the basis of proceedings of the meeting dated 01.07.2015 Bangalore of Episcopal Synod of Anglican Church of India. Thus, the original metropolitan of India as authorised by TAC is Samuel P. Prakash, to whom he is now not recognizing as his

metropolitan as well as appointing authority i.e. TAC. Moreover, Rockus B Sandhu was already suspended by the Metropolitan Samuel P. Parkash on 17.11.2012 for his illegal activities as is evident from Annexures R-6 and R-7. Suspended Bishop cannot hold Episcopal Synod and appoint a new Metropolitan. Meaning thereby, so called appointment of Rockus B Sandhu as Metropolitan is also illegal. Since, Rockus B. Sandhu has nothing to do with either ADTA or the Church of North India and its properties, application moved under order 22 Rule 10 read with Section 151 of the Code has rightly been dismissed.

10. After bestowing due consideration to the rival submissions made by learned counsel for the parties and appraisal of various documents available on record and scrutinizing the impugned orders, this Court finds legal and factual substance in the submissions made by learned counsel for the appellant.

11. Before proceeding further to decide the instant appeal on merits, it would be apt and proper to highlight the fact that while disposing of an application under Order XXII Rule 10 of the Code, the Court has to be only prima facie satisfied for exercising discretion in granting leave for continuing the suit by or against the person, on whom, the interest has devolved by assignment or devolution. The question about the existence and validity or devolution was not to be considered at that stage. Such an observation was made in case ***“Amit Kumar Shaw & another v. Farida Khatoon & another”*** 2005(2) CCC 423 (SC) by the Hon'ble Apex Court. Similarly, in another case titled as ***“Dhurandhar Prasad Singh v. Jai Prakash University”***, 2001(3) CivCC 205 (SC), the Hon'ble Apex Court has held while dealing with an

application under Order XXII Rule 10 of the Code that the leave of the Court can be sought not only by the person upon whom interest has devolved but also by the plaintiff or by any other party or person interested. In another case, captioned as “*Riku Dev, Chela Bawa Harjug Dass v. Som Dass*”, AIR 1975 (SC) 2159, it was observed that in a suit against a person in representative capacity and devolution of interest, Rule 10 would be applicable and not Rules 3 and 4 of the Code. In the instant case, there is more than prima facie evidence available on file with regard to the maintainability, locus standi and devolution of interest upon the appellant.

11. The main contentions raised by learned counsel for the respondents are that instant appeal against an order of declining an application moved by Rockus B Sandhu under Order XXII Rule 10 read with Section 151 of the Code for his substitution as appellant No.3 in place of Babu Masih is not legally maintainable as no appeal has been provided under Order 43 (1) (k) of the Code and that application has been filed after a long delay as Babu Masih expired on 30.11.2003 during the pendency of appeal before this Court but an application under Order 22 Rule 10 of the Code was moved in the month of September 2008. Even said application was moved after 32 months of the remittance of the appeal to the lower appellate court by this Court in view of the amendment in the Punjab Courts (Amendment) Ordinance Act and that against an order whereby an appeal stood abated, no appeal is maintainable in view of the provisions contained under Order XXII Rule 9/10 of the Code.

12. As far as the contention of learned counsel for the respondents regarding non-maintainability of the appeal or that it is beyond limitation and

being filed after an inordinate delay are concerned, this Court does not find any legal substance therein. As far as the maintainability of instant appeal is concerned, Order 43 Rule 1 (l) read with Section 104 of the Code clearly provides that an appeal is maintainable whereby an application has been rejected or accepted moved under Order XXII Rule 10 of the Code. Similarly, the contention with regard to the limitation is also untenable. In fact, there is no limitation prescribed for presentation of an application under Order XXII Rule 10 of the Code. There is no penalty provided to substitute a person on whom the interest of plaintiff devolved after a delay. Hence, right to make an application under Order XXII Rule 10 of the Code is a right, which accrues from day-to-day practice and can be made at any time during the pendency of lis. In case, ***“Sitabai Ramchandra Jaltare and others v. Masjid Nurun Mohalla, Jingerwadi, AIR 1979 (Bombay), 109***, division Bench of High Court of Nagpur has observed that there is no limitation prescribed for presentation of application under Order XXII Rule 10. Thus, an application under Order XXII Rule 3 of the Code can be filed at any time during the pendency of lis. Similar, observation was made by Division Bench of Madras Court in case ***“Thirumalai Pillai v. Arunachella Padayachi”, AIR, 1926 (Madras) 540***, in which, the facts were identical to the facts of the present case and the Madras High Court made the following observation(s):-

“Where some of the trustees die or retire during the pendency of a suit and new persons are elected to fill their place. It is a case of devolution of interest during the pendency of a suit and the elected persons can be added as parties under Order 22 Rule 120, notwithstanding the question of limitation”

13. In the aforesaid case, one of the trustees died in 1923 and another retired in April 1924 but application to bring on record their successors was not made till 1925 when the appeal was being heard before the Madras High Court. The ratio decidendi of that case was that when a trustee dies, his estate cannot be said to devolve upon anyone, certainly not upon his legal heirs and therefore, the provisions of Order XXII Rule 3 of the Code do not apply.

14. Considering the arguments of the learned counsel for the respondents from either of the angles, the instant appeal is legally maintainable under Order 43 Rule 1(l) of the Code and further that the law of limitation is not attracted in the case in hand.

15. Now, the crucial question, which requires determination in the instant case is whether appellant has got an interest in the property and is entitled to be impleaded as one of the appellants after the demise of Babu Masih.

16. During the course of arguments, much stress has been laid by learned counsel for the respondents that since interest in the affairs of ADTA never vested in R. Babu Masih, substitution in his place is not legally permissible and further that appellant-Rockus B. Sandhu has got no locus standi to be impleaded as one of the appellants in the appeal, especially, in the circumstances that he was not appointed as Bishop of Anglican Church of India and further that Church of North India is the successor of CIPBC and the properties vesting in ADTA are held by the benefit of Church of North India. Again in the considered opinion of this Court, aforesaid contention or submission does not carry any legal weight in view of the plethora of documents available on record which

clearly prove that appellant-Rockus B. Sandhu is not only Bishop of Anglican Church of India and ex-officio Chairman of ADT, Amritsar but Metropolitan of India and Chairman of Delhi Diocese Trust. Thus, the claim of the respondents that the Church of North India is the successor of CIPBC and the properties vesting in ADT, Amritsar were handed over for the benefit of Church of North India is not tenable.

17. Here, it would also be pertinent to mention that the merger of First District Church of the Brethren (hereinafter referred to as “the FDCB”) with the other churches referred to above was not carried out in accordance with the provisions of law and rules. The question with regard to the merger and vesting of interest in the Church of North India came for scrutinization before the Hon'ble Apex Court in case “*Vinodkumar M. Malavia etc. v. Maganlal Mangaldas Gameti and others*”, arising out of Special Leave Petition (Civil) Nos.16575-16576-2012 and it was observed that to give effect to the unification of 6 churches which included FDCB, an offshoot of Brethren Church of USA and other Churches, the requisite procedure was not adopted.

18. After a long and detailed discussion, the Hon'ble Apex Court observed in the said case that procedure for dissolution of FDCB has not been confirmed/conformed to the requirements set out in Section 13 of the Societies Registration Act as well as the procedure as laid down in the BPT Act. Thus, it cannot be said that all the churches were legally merged and the properties vested in the Church of North India. It was also categorically held that the resolutions produced and the deliberations made in the internal meetings of FDCB only talk about amalgamation of FDCB with the other churches and the

intent to dissolve the society as well as the registered trust is not conveyed and hence, said resolution or deliberation cannot be relied upon. On the basis of resolutions and deliberations, the claim of the respondents that CNI is the successor of the property of the FDCB, which vests with the registered trust, does not hold good. In another case, captioned as **“Church of North India vs. Lavajibhai Ratanjibhai and others**, the Hon'ble Apex Court observed as under:-

Furthermore, there is nothing on record to show the mode and manner of the management and control of the trust property.” Subsequently this Court in the abovementioned case discussed the procedure under the BPTA which is reproduced as under:

“70.....The BPT Act provides for express exclusion of the jurisdiction of the civil court. In various provisions contained in Chapter IV, a power of inquiry and consequently a power of adjudication as regards the list of movable and immovable trust property, the description and particulars thereof for the purpose of its identification have been conferred. In fact, the trustee of a public trust is enjoined with a statutory duty to make an application for registration wherein all necessary descriptions of movable and immovable property belonging to the trust including their description and particulars for the purpose of identification are required to be furnished. [Section 19](#) provides for an inquiry for registration with a view to ascertaining inter alia the mode of succession to the office of the trustee as also whether any property is the property of such trust. It is only when the statutory authority satisfies itself as regard the genuineness of the trust and the properties held by it, is an entry made in the registers and books, etc. maintained in terms of [Section 17](#) of the Act in consonance with the provisions of [Section 21](#) thereof. Such an entry, it will bear

repetition to state, is final and conclusive. Changes can be brought about only in terms of [Section 22](#) thereof.” The above facts clearly show non-compliance with the procedure under BPTA. The argument that as per [Article 254](#) of the Constitution, the [Societies Registration Act](#) overrides the BPTA or that the [Societies Registration Act](#) and BPTA are in conflict, does not stand either, since both the statutes are not in conflict with each other. On the contrary, they are in consonance with each other regarding the administration and regulation of public and religious trusts.

Therefore, we are of the opinion that the claim of the appellants that following unification of FDCB with CNI after the purported resolution resulted in the dissolution of FDCB making CNI its legal successor and controller of its properties, does not hold good and cannot be accepted. The High Court has rightly observed that :

“..... The trust which has been created as public trust for a specific object and the charitable or the religious nature or for the bonafide of the Society or any such institution managed by such trusts for charitable and religious purpose shall continue to exist in perpetuity and it would not cease to exist by any such process of thinking or deliberation or the Resolution, which does not have any force of law.”

Since the FDCB trust never stood dissolved, the properties of the same will not vest with CNI. Earlier also, this Court in Church of North India (supra) has observed the same and stated that :

“...the purported resolutions of the churches affiliated to the Brethren Church and merger thereof with the appellant, having regard to the provisions of the Act was required to be done in consonance with the provisions thereof. It is not necessary for us to consider as to whether such dissolution of the churches and merger thereof in the appellant would amount to alienation of

immovable property but we only intend to point out that even such alienation is prohibited in law.”

19. Thus, in view of the above, it was categorically held by the Hon'ble Apex Court that merger of the churches as claimed by Church of North India was not done in accordance with provisions of law.

20. It is also pertinent to note that matter was also pending before the Court at South New Delhi and in the said case the plaintiff had withdrawn the suit under Order 23 Rule 1 read with Section 151 of the Code in view of the observation made by Hon'ble Apex Court in case ***Vinodkumar M. Malavia's case (supra)***. Thus, the contention of the respondents cannot be accepted that the Church of North India is the successor of other churches including the CIPBC, which is now known as Anglican Church of India. Not only this, the Delhi Diocese Trust Association, a company duly constituted and incorporated in pursuance of Sections 25/26 of the Indian Companies Act, 1913 and having its registered office at 1, Church Lane, New Delhi filed a suit against ADTA (Regd.) Amritsar, Bishop of Delhi Episcopal Area of Methodist Church in India, New Delhi through its president in the Civil Court at Karnal (Haryana) which was dismissed vide judgment and decree dated 27.03.2014, in which, it has been clearly held that Amritsar Diocesan Trust, Amritsar (which is being called as Anglican Church of India) was transferred to Anglican Church of India i.e. ADTA.

21. As far as the contention raised by Mr. R.S. Bal, Advocate representing respondent No.70 is concerned that appellant is disqualified to be appointed as either Bishop or Chairman of ADTA or Metropolitan as he is

proclaimed offender in a number of criminal cases registered against him which stands fortified from the various documents available on file but at this juncture, it is not to be seen whether his appointment is legal or illegal, authorised or unauthorised, as instant appeal is only against the dismissal of application moved under XXII Rule 10 of the Code for being substituted him as appellant No.3 being the Bishop of Anglican Church of India and Chairman of ADTA.

22. A glance at the impugned order transpires that application under Order XXII Rule 10 of the Code has been dismissed by Id. Additional District Judge, Amritsar merely on the ground that RB Sandhu claimed himself to be appointed as Bishop and Chairman of ADTA vide letter dated 19.11.2005 issued by Metropolitan Anglican Church of India and Bishop of Diocesan Trust Association whereas the opposite party i.e. the respondents have placed on record letter dated 22.01.2013 vide which, he has been removed from the said post. It appears that Id. lower appellate court has misunderstood the letter dated 22.01.2013 vide which RB Sandhu is alleged to have been removed from the said post.

23. A cursory look at the aforesaid letter dated 19.11.2005 (Annexure A-6) transpires that Rockus B Sandhu was elected as Chairman, Amritsar Diocesan Trust Association, which was conveyed to him vide appointment letter dated 19.11.2005. Vide aforesaid letter, he has been informed that since he has scored highest votes in Amritsar Diocesan Council for Bishop election, they have considered him as Bishop elect and further that they have to carry on the procedure and follow the constitution to give final date for Bishop consecration.

The letter was issued under the signatures of Rev. Samuel P. Parkash,

Metropolitan on India and copies thereof were sent to David Paul, Secretary Amritsar Diocesan Trust Association, Mr. Vinod, Office in charge, Bishop's House, Amritsar and Rev. Pankaj John, Archdeacon & Manager CMS high School, Majitha. Subsequently on 26.08.2006, he was duly and legitimately appointed according to the constitution of the Anglican Church of India on 15.10.2006 and certificate of enthronement of a Bishop was issued to him on 15.10.2006.

24. As far as letter dated 22.01.2013, which was allegedly issued by Samuel P Parkash for removal of RB Sandhu from the post of Bishop of Amritsar and Chairman ADTA is concerned, this Court does not find it of any legal sanctity as Samuel P. Parkash was already removed from the post of Metropolitan of India by Episcopal Synod of the Anglican Church of India vide judgment dated 10.01.2013 (Annexure P-5). Thus, Samuel P. Parkash was not having any authority to remove Rockus B. Sandhu, who was appointed in the year 2005-06 as is evident from the various letters available on file. Thus, one thing is evident that appellant being the Bishop of Anglican Church of India and Chairman of ADTA Amritsar or Metropolitan is a competent person to be substituted in place of Babu Masih and to proceed with the appeal which has been ordered to be abated vide impugned order dated 30.03.2013.

25. In the light of what has been discussed above, this Court is of the considered view that the impugned order dated 30.03.2013 whereby an application under Order 22 Rule 10 read with Section 151 of the Code has been dismissed suffers from material infirmities and illegalities and is also against the letter and spirit of various documents available on file. As such, it is not

sustainable in the eyes of law and deserves to be set aside by way of acceptance of instant appeal. The order is made accordingly. Consequently, application moved by R.B. Sandhu under Order XXII Rule 10 of the Code stands allowed on account of acceptance of instant appeal, another order dated 30.03.2013 whereby appeal stood abated stands set aside, however, appellate court is directed to proceed with the appeal for its final disposal in accordance with law. Record received from the lower appellate court or trial court be returned immediately to the court(s) concerned.

26. No order as to costs.

August 09, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *Yes*