

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CO No.2 of 2014 (O&M)
Date of Decision : 28.05.2018

Anil Sarin

..... Petitioner

Versus

Deputy Commissioner, Ferozepur
District Ferozepur and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Anand Chibbar, Senior Advocate with
Mr. Lalit Thakur, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Mr. Pranav Handa, Advocate for
Mr. Sandeep Khunger, Advocate
for respondents No.2 & 3.

AJAY TEWARI, J. (Oral)

On 29.01.2018 the following order was passed :-

“This petition has been filed under Section 301 of the Indian Succession Act, 1925 to reconstitute the Trust in the memory of late Rai Tulsi Ram. The petitioners and respondents are descendants of the two wives of late Rai Tulsi Ram. The petitioner is present in the Court. Learned Counsel for the petitioner and the learned counsel for the respondents Nos. 2 and 3 state that both the parties have accepted that the trustees should be persons of integrity and capability but should not belong to the family. It is their case that the then Deputy Commissioner, Ferozepur was named as 'Sarparast' (Executor) of the trust but owing to official engagements no Deputy

Commissioner has been able to devote any time to the Trust and consequently, they prayed that Executor be also changed.

Learned DAG has accepted the first suggestion but states that he is not in a position to accept the second suggestion. Be that as it may, in the first instance, it would be appropriate if the trustees can be appointed with the consent of the petitioner and the respondents Nos. 2 and 3 and thereafter, the issue of appointment of Executor be taken up. Both the counsel seek a short adjournment to enable both the parties to arrive at some agreed names or to give their nominees so that matter can be taken up further.

Learned DAG is also requested to get instructions from the Deputy Commissioner, Ferozepur about such persons who in his information would be suitable trustees.

Adjourned to 6.3.2018.”

Thereafter on 06.03.2018 the following order was passed :-

“Today, learned counsel for the petitioner and counsel for respondents No.2 and 3, on instructions from their clients, have accepted that Mr. Sanjay Ahuja, Joint Chairman, Genesis Institute of Dental Sciences and Research, Anil Baghi College of Nursing/Director Delhi Public School Ferozepur and Mr. Raghumit Sodhi, Chairman, Savera Charitable Trust and Guru Ramdas Educational Trust, be nominated as trustees. A proposal has also come that apart from these two trustees, the Commissioner Ferozepur Division be requested to take over as Surprust of the Trust in place of the Deputy Commissioner in view of the fact that the Deputy Commissioner has multifarious duties and may not be available to devote time to the functioning of the trust. Learned DAG Punjab states that the Deputy Commissioner wants to personally present his views about this whole issue. Counsel for the parties have no objection.

In my considered opinion, it would also be appropriate to have the aforesaid proposed two names vetted from the Deputy Commissioner.

Adjourned to 22.3.2018.”

Thereafter on 16.04.2018 the following order was passed :-

“Mr. Ramvir, Deputy Commissioner, Ferozepur is present and states that he has no objection to the nomination of the two persons mentioned in the order of the last date but it would be very important that some officer of the State be involved in the Trust, since there is a public interest and since the family members of the original settlers have decided to step aside.

Counsel appearing for the two parties have welcomed this move. The only caveat raised by the learned senior counsel appearing on behalf of the petitioner is that some scheme should be made so that the trust works effectively. The Deputy Commissioner states that he would work on a scheme to effectuate the trust and would keep the two nominees in confidence.

In my opinion, not only would it be important for the Deputy Commissioner to interact with the two nominees, it would also be important that the two parties before me also interact with the Deputy Commissioner so that before they finally step aside they are also satisfied that the trust would now work in a good manner.

The Deputy Commissioner states that he would meet with all the persons at 11.00 A.M. on 23.04.2018 in his office.

Adjourned to 15.05.2018.”

Today short affidavit of Sh.Ramvir, Deputy Commissioner, Ferozepur, District Ferozepur (Punjab) has been filed and the same is taken on record. In pursuance to the previous orders the Commissioner,

Ferozepur Division was approached to take on the role of patron and he has

consented to the same. It has further been proposed that the Additional Deputy Commissioner be also nominated as a member. The other two members which were unanimously suggested by the parties i.e. Shir Sanjay Ahuja and Shri Raghumeet Sodhi had also found favour with the Deputy Commissioner and consequently they are also appointed as trustees.

As regards the formation of a scheme for the working of the trust and to make the bye-laws the Deputy Commissioner has given some suggestions but has recommended that since the trustees have now been appointed it would be appropriate if they frame their own bye-laws under the guidance of the patron in any time bound manner.

I find favour with the suggestion. In the circumstances, the trust is now re-constituted with the Commissioner, Ferozepur Division as its patron. The Additional Deputy Commissioner, Ferozepur, Shri Sanjay Ahuja and Shri Raghumeet Sodhi as members. They are directed to frame bye-laws and the other modalities to ensure that the trust functions well and for the purpose it was set up and to ensure that the properties vested in the trust are used by the trust for the purpose it was set up. The trustees would now independently take decision as regards the application of the property of the trust in terms of the bye-laws framed. Let the bye-laws and other modalities be now finalized within a period of six months.

Civil origin stands disposed of with the above terms.

A copy of this order be given to the learned Deputy Advocate General under the signatures of the Bench Secretary for onward transmission to the Commissioner Ferozepur Division with a request to him to ensure that the above directions are complied with.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

28.05.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No