

221/2
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 21.2.2018

(1) CR-6830-2013

Jangpal Singh Bhasin

..... Petitioner

Versus

Atam Parkash

..... Respondent

(2) CR-185-2016

Gurudwara Shri Singh Sabha (Regd.)

.....Petitioner

Versus

Jangpal Singh Bhasin and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Arun Jain, Sr. Advocate with
Mr. Arnav K. Sood, Advocate for the petitioner.
(CR-6830-2013)

Mr. H.S. Sethi, Advocate for the petitioners (CR-185-2016)
for applicant in CM-23202-CII-2015 in CR-6830-02013

None for respondents in both the cases.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

This order of mine shall disposed of above mentioned two revision petitions bearing **CR-6830-2013**, titled as **Jangpal Singh Bhasin vs. Atam Parkash** and **CR-185-2016**, titled as **Gurudwara Shri Singh Sabha (Regd). vs. Jangpal Singh Bhasin and another**, as the same question of law and facts and involved in both the petitions. For brevity, the facts are being taken from **CR-6830-2013**.

Impugned in the present revision petition is the order dated 1.10.2013, passed by learned Additional District Judge, Fast Track Court (Adhoc) Jalandhar, vide which while disposing of the appeal against an order passed in an application filed under Order XXXIX Rule 1 and 2, read with Section 151 of the Code of Civil Procedure, 1908, following directions were issued: -

'Therefore, the order of the learned Court of Sh. Munish Garg, PCS, CJJD, Jalandhar is set aside as apparently the respondent/defendant is not at present member of the Executive Committee and the present Committee headed by the defendant and others who are in actual control and management over the affairs of the Sabha in a fair, impartial and transparent manner. In the process the Sabha can frame rules about the expenditure, collection of offerings, keeping accounts having auditors on alternative basis so that there is a complete transparency in management of affairs of the Sabha so that there is no breach of trust or mismanagement resulting into misappropriation of funds of the Sabha or there is an erosion in the purpose for which the sabha was formed.

Keeping in view the observation of this Court it will be upon the Executive Committee headed by the defendant to ensure that even Sehajdhari are allowed to become members subject to the condition that in case there is a judicial verdict, subsequently whereby Sehajdhari are debarred they will automatically cease to be members of the Sabha. Till that time Kesadhari and Sehajdhari resident of Model Town having faith in Sikh religion, in the teachings of 10 Gurus and in holy Guru Granth Sahib having faith in the humanity Manas Ki Jaat Ek Ho, Sabhya Penchan Bho and such members are allowed to be member for one year atleast only thereafter the elections should be conducted with the following modification and after setting aside the order the appeal is accepted. The order of the learned trial Court dated 22.8.2012 is set aside. The effective date for enrolment of fresh members both Sehajdhari and Kesadhari would be the date of the order in appeal. However, it is made clear that the observations and findings given hereinbefore are based upon appreciation of prima facie evidence placed on record and are only meant for the purposes of disposal of the

present appeal and shall not be construed to have been given on merits of the case or to direct the trial Court in any aspect of the case. The papers of the appeal be consigned to the record room. Lower Court record be sent back.'

Heard.

It comes out that one Jangpal Singh Bhasin, claiming to be the Secretary of Gurudwara Shri Singh Sabha (in short 'the Gurudwara') filed a suit for permanent injunction against Atam Parkash from restraining him from enrolling ineligible voters and holding sham election of Gurudwara Shri Singh Sabha (regd.) Model Town, Jalandhar, on the basis of fictitious or illegal electoral roll. It was claimed in the plaint that the Gurudwara is a registered society and there is a criteria as to who is eligible to be enrolled as a member.

It is further stated that one Mandeep Singh Sethi is still continuing to be the President of the Gurudwara and the list of office bearers is attached. Defendant-Atam Parkash has inserted an advertisement in the newspaper claiming to be the President of the said Gurudwara and stating that the elections are to be conducted after the enrollment of member of the Gurudwara. It is stated that defendant has no concern with the management of the Gurudwara. He is not the office bearer, therefore, he should be restrained from enrolling members and holding sham elections.

Learned trial Court passed the order of status quo vide order dated 22.8.2012, which was modified in appeal by learned Additional District Judge, Fast Track Court (Adhoc), Jalandhar vide order dated 1.10.2013.

In the second connected revision petition, i.e. **CR-185-2016**, titled as **Gurudwara Shri Singh Sabha (Regd.) versus Jangpal Singh Bhasin and another**, petitioner -Gurudwara has impugned the order dated 23.10.2015, passed by learned Civil Judge (Junior Division), Jalandhar, vide which application filed under Order I Rule 10 of the Code of Civil Procedure, 1908 to become party was dismissed.

Learned counsel for the petitioner submits that he is appearing in **CR-6830-2013** only and does not wish to represent the present petitioner(s) in the other connected revision petition.

Learned counsel appearing for Gurudwara has placed on file a letter dated 26.4.2014, showing that Atam Parkash Singh has resigned from the post of President on 26.4.2014 and has nothing to do with the affairs of Gurudwara. Further it is stated that now Jangpal Singh Bhasin -petitioner is also no more Secretary of the Gurudwara and has also nothing to do with the affairs of the Gurudwara.

I am of the view that the plaint shows that there is a dispute regarding the office bearers of the Gurudwara which is registered under the Cooperative Societies Act, 1912, which has not been made party nor its office bearers have been disclosed. Petitioner-Jangpal Singh Bhasin has filed the suit claiming to be the Secretary of the Gurudwara, as he was then, and the suit was not filed by the Gurudwara through its office bearers. Atam Parkash Singh was stated not to be the President of the said Gurudwara. Therefore, in the circumstances, I am of the view that the controversy could not be effectively decided without making Gurudwara, a registered society, as a necessary party. In any case, plaintiff-petitioner is the master of his suit

and if he does not want to include the said Gurudwara, its effect is to be seen while granting or rejecting the injunction.

I am of the view that since at present neither the plaintiff nor the defendant are the office bearers, therefore, no effective relief could be granted without the Gurudwara being party to the case. Since, the Gurudwara is not the party to the injunction suit, therefore, no effective relief could be granted. Any order passed in this case is likely to effect the rights of the Gurudwara which is a religious institution widely respected in the area. The injunction is to be granted considering a prima facie case, balance of convenience and irreparable loss.

I am of the view that all the three ingredients are not satisfied in the present case, therefore, no injunction is to be granted to the plaintiff so as to hamper the working of the Gurudwara without making the said Gurudwara and its office bearers as parties.

Hence, the present revision petition is disposed of in the manner that the application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, filed by the plaintiff stands dismissed.

Since the plaintiff-petitioner is the master of his suit and does not want to implead the said Gurudwara as a defendant and does not seek any injunction against the Gurudwara and for that reason he is already failed to get the relief, therefore, the present revision filed by petitioner-Gurudwara for not making the Gurudwara as a party to the suit is also dismissed.

In this case, no declaration has been sought regarding the office bearers or their status and simple injunction has been sought.

It is further directed that any final judgment or order passed in this case while disposing of the suit finally shall be binding only on Atam Parkash Singh-defendant in his personal capacity and on any representative of the Gurudwara.

Disposed of with aforesaid observations.

(KULDIP SINGH)
JUDGE

21.2.2018
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No