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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 23rd March, 2018

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CONT.CAS(C) 34/2017

M/S. BAPTIST UNION OF NORTH INDIA

..... Petitioner

Through: Mr. Kirti Uppal, Senior Advocate with
Mr. Abhishek Chauhan, Advocate.

versus

**BAPTIST CHURCH TRUST
ASSOCIATION & ORS.**

..... Respondents

Through: Mr. Darpan Wadhwa, Senior Advocate
& Mr. P.S. Bindra, Adv. for R-1- 5.
Mr. Vaibhav Tyagi and Mr. Piyush
Singh, Advocates for R-8. (M:
9711007680)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

CONT. CASE 34/2017

1. This is a Contempt Petition (Civil) filed by Mr. Paul N. Prem (*hereinafter, 'Petitioner'*) seeking to represent the Baptist Union of North India, Karol Bagh, New Delhi-05 against the Baptist Church Trust Association/Respondent No.1 (*hereinafter, 'BCTA'*) and its office bearers who are arrayed as Respondent Nos.2 to 7, herein. The basis of the contempt is order dated 2nd March, 2015 r/w order dated 26th April, 2016 passed by this Court in RFA 132/2015. Relevant portion of the order dated 2nd March, 2015 is as under:

"Learned senior counsels for respondents no.5 & 6 on instructions from the competent officer present in Court submits that respondents no.5 & 6 are not

contemplating to dispose of any of their properties. The statement is taken on record.”

2. Vide order dated 26th April, 2016, this Court confirmed the interim order, as under:

"1. The appeal impugns a judgment and decree of dismissal of a suit for declaration, perpetual and mandatory injunction consequent to the decision on a preliminary issue.

2. Notice of the appeal was issued.

3. Adjournment is sought on behalf of the counsel for the appellant.

4. The counsels for all the respondents appear.

5. Admit.

6. Considering that in the event of appeal succeeding the suit will have to be remanded it is deemed appropriate to hear the appeal on an actual date.

7. List for hearing in the category of 'After Notice Miscellaneous Matters' on 17th January, 2017.

8. CM No.3806/2015 is disposed of making the interim arrangement absolute.

9. CM No.28299/2015 (under Order 1 Rule 10 of the CPC) to be heard at the time of the hearing of the appeal."

3. It is the submission of the Petitioner, that in violation of the above orders, the BCTA has sold away part of the property belonging to the BCTA at Palwal, Harayana to Respondent No.8- M/s. Mansha Buildcon Pvt. Limited (*hereinafter*, 'Respondent No.8'). In support of the submission, Ld. Senior Counsel for the Petitioner relies upon the Extracts of the Minutes of the Committee of Management of the BCTA dated 23rd February, 2016 appearing at page 64 of the Contempt file which records the decision to sell

the agricultural land belonging to the BCTA. The relevant extracts of the said Minutes are set out below:

“RESOLVED THAT consent of the Committee of Management be and is hereby accorded to sell Agricultural land admeasuring 78 kanal 11 in full or in part(s) alongwith all super structures standing thereon and falling in Mustsdil no. 180 Killa No. 12(0-14), 27(0-8), 28(8-15), 29(1-0), 32(21-16), 11/3(1-7), Mustadil No. 196 Killa Nos. 26(9-11), 27(24-5), Mustadil no. 181 Killa No. 26(10-15) situated in Tehsil and District Palwal, falling in Nagar Parishad Palwal, Haryana.

RESOLVED FURTHER THAT Mr. Joy Spencer Singh, Secretary-Treasurer, be and is hereby authorized on behalf of the company to negotiate, finalixe the terms and conditions for sale, to sign any agreement/agreement to sell, sale deed(s), to receive consideration and to issue receipts. He is further authorized to apply for NOC, if required from the appropriate authority.

He is further authorized to get the sale deed(s) registered at the appropriate Registrar’s office and to get it mutated in the name of the buyer and to do all acts, deeds and things as may be required to sell the above said land and to complete the transaction.”

4. The background of the litigation is that there are three associations - First, the BCTA registered way back on 27th May, 1932 which is an All India Apex Body. The said association has several members out of which the Baptist Union of North India (*hereinafter*, ‘BUNI’) is one of them. The second association is BUNI (*hereinafter*, ‘Registered BUNI’) which is a registered body and is arrayed as Respondent No.6 in RFA 132/2015. The third body is BUNI operating from Karol Bagh, Delhi (*hereinafter*, ‘BUNI, Karol Bagh’), run by the Petitioner-Mr. Paul N. Prem. It is the contention of

BUNI, Karol Bagh that it is the member of BCTA. The question in RFA 132/2015 is as to which of the two BUNI organizations is the actual, recognized member of BCTA. On a specific query to the Petitioner if BUNI, Karol Bagh, which is run by the Petitioner, is a registered body, the answer is in the Negative.

5. It is submitted by Ld. Senior Counsel appearing for BCTA that BCTA is the Apex body and Registered BUNI is a member of the same. It is further submitted that the Petitioner has no locus as Respondent Nos. 1 to 4 in RFA 132/2015 are no longer associated with BCTA and in any case Respondent Nos. 1 and 3 in RFA 132/2015 have already passed away. BCTA and the Registered BUNI are directed to file an affidavit disclosing as to who are the persons running their day to day management.

6. The reply filed by BCTA to the contempt, is supported by an affidavit of Mr. Sumeet Nath who is the Secretary/Treasurer of BCTA. It is stated that BCTA is the owner of the properties mentioned in paragraph 11 of the Complaint and that the Petitioner has no right to question BCTA. It is submitted that though the Petitioner has no locus to challenge the rights of BCTA over properties under its ownership and control, there is no violation of the orders of this Court. In paragraph 6, of the Reply it is categorically submitted that the agricultural land which is mentioned in the Minutes of BCTA dated 23rd February, 2016, was sold to Respondent No. 8, but the said land does not form either a part of the Baptist school or of the bungalow or the residential properties located in Palwal, Haryana, as described in para 11 of the complaint and is hence not covered by the interim order. The relevant portion of the Reply in the contempt is extracted below:

“6. That the present petition is based on false, baseless and fabricated facts, the petitioner intentionally and deliberately suppressed the material and true facts from this Hon’ble Court. It is submitted that the property falling in Mustsdil no. 180 Killa No. 12(0-14), 27(0-8), 28(8-15), 29(1-0), 32(21-16), 11/3(1-7), Mustadil No. 196 Killa Nos. 26(9-11), 27(24-5), Mustadil no. 181 Killa No. 26(10-15) situated in Tehsil and District Palwal, falling in Nagar Parishad Palwal, Haryana (hereinafter referred to as the suit property) is not a part of the present RFA as alleged by the Petitioner. The said property is an agricultural land situated at Palwal, Harayana, whereas in the list of properties, which was mentioned at para No. 13(f) of the appeal, only mentioned the Baptist School and Bungalow and other residential properties situated at Palwal, Haryana. The properties mentioned at para No. 13(f) of the Appeal, are still with Respondent No.1. The said property is not a subject matter of the present Appeal, which is pending for adjudication before this Hon’ble Court, as such the question of violating any of the Court order passed by this Hon’ble Court does not arise.”

7. Mr. Sumeet Nath is present in Court and upon instructions from him, the Ld. Senior Counsel submits that the agricultural land which has been sold is few kilometres away from the school as well as the bungalow and other residential properties in Palwal, Haryana.

8. Accordingly, taking the averment that the property sold does not form part of any of the properties listed in Paragraph 11 in the Complaint on record, the Contempt petition is disposed of, subject to BCTA filing an affidavit to the effect that the said land does not form part of the School, Bungalow or other residential properties located at Palwal, Haryana. The affidavit to the above effect shall be filed in RFA 132/2015 within a period of 4 weeks.

9. The original reply affidavit of BCTA (*wrongly described as reply on behalf of Respondents 1-7*) is not on record. Copy of the reply handed over today in court is taken on record. Let the same be tagged with the RFA file. Counsel to trace the original reply affidavit and get the same placed on record.

10. Contempt petition is accordingly disposed of in the above terms.

PRATHIBA M. SINGH, J.
Judge

MARCH 23, 2018/uj

