

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

CR-1912-2019 (O&M)
Date of decision: 19.11.2019

Vijay Kumar (deceased) through his LR

...Petitioner

Versus

Nai Sabha Rewari and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Ajay Jain, Advocate for the petitioner.

Mr. Harkesh Kumar, AAG, Haryana
for respondent No.2.

H.S. MADAAN, J.

Briefly stated facts of the case are that Nai Sabha Rewari through Sh. Bhagwan Dass son of Tara Chand President had brought a suit against defendant Vijay Kumar, contending that defendant had been representing himself as Pradhan/President of 360 village Nai Sabha; that there is no society/organization by the name of 360 village Nai Sabha, as such, Vijay Kumar has no right to represent himself as President of said society. That defendant wanted to encroach upon property of plaintiff society by showing registered office of plaintiff society as his own registered office.

Feeling aggrieved, plaintiff filed a suit for permanent injunction and mandatory injunction against the defendant.

On being put to notice, the defendant appeared and filed

written statement cum counter claim. Therein, he had taken preliminary objections with regard to maintainability of the suit, locus standi of the plaintiff to bring it etc. On merits, the defendant contended that the plaintiff society is a registered organization having registration No.92 but denied that Bhagwan Dass son of Tara Chand is its President. As per version of the defendant, earlier Bhagwan Dass was President of society, however, after 27.09.2011, fresh elections were got conducted and Sh. Bhagwan Dass no longer remained the President; that Bhagwan Dass was elected as President only once and after that, he started behaving like a dictator, taking over all the property as well as administration work of the society. Sh. Bhagwan Dass after being elected as President, disregarded all the rules and regulations and had not let the elections to be conducted after 2011. Thereafter, Nai Samaj protested against it and on 27.09.2011, with the help of the police, elections were conducted, in which, defendant Vijay Kumar was elected as President. After 27.09.2011, Bhagwan Dass has no concern with the Nai Samaj but he is not letting defendant work as per the regulations of the plaintiff society.

The defendant had filed a counter claim, stating that as per Memorandum of Association and Constitution of Nai Sabha Rewari, duly registered with Registrar of Society, having registration No.92, in terms of Article 4, there is a provision of office bearer and according to the Article 7 of the Constitution, the term of office members of the Executive Committee and Governing Council is to be for a period of three years and till further election. Article 7 provides that when the fresh election had

been held by General Body of the Nai Sabha, then, the former President of Nai Sabha automatically cease to hold the office of President. Nevertheless, even after elections held in 2011, Bhagwan Dass representing himself as President of Nai Sabha had been carrying out work in the capacity of President, which is illegal and not binding upon the plaintiff society; that plaintiff had entered into an agreement before the High Court in RSA-1846-1996 titled as Mahavir Parshad and another Vs. Nai Sabha Rewari. Without any authority, the said agreement was entered into after 2011, when the fresh elections had already been taken place and defendant Vijay Kumar had been appointed as new President; that in terms of the agreement before the High Court, plaintiff Bhagwan Dass wanted to relinquish his rights in Nai Sabha in favour of Mahavir and others, which was against the interest of Nai Sabha. The defendant had also moved an application in the High Court to oppose that illegal act on the part of Bhagwan Dass; that Bhagwan Dass had locked office of Nai Sabha situated at Nai Wali Bagichi, Narnaul Road, Rewari and had illegally kept all the records of Sabha with him, not giving any explanation regarding the income and expenses of the Sabha before the General Body; that the defendant had asked him not to represent himself as President of Nai Sabha and to unlock office and hand over all the documents to the newly elected President but to no effect. Thus, the counter claim had been filed seeking a decree for mandatory injunction against the plaintiff to hand over the charges of office bearer to the defendant, who is newly elected President.

The plaintiff filed reply to the counter claim, refuting the assertions therein and prayed for its dismissal.

No replication was filed. Issues on merits were framed.

The parties were afforded adequate opportunities to lead evidence and vide detailed judgment dated 30.09.2016, trial Court of Civil Judge (Jr. Divn.) Rewari, dismissed the suit filed by the plaintiff as well as counter claim filed by the defendant, leaving the parties to bear their own costs.

The parties had arrived at a settlement in terms of which, Bhagwan Dass President of respondent No.1/plaintiff Sabha had already moved before Registrar of Societies for fresh election of the society and had withdrawn appeal; that he had sought issuance of directions to Registrar of Society Rewari to hold election process of plaintiff society within three months and the parties were left to bear their own costs.

The plaintiff filed an appeal against the impugned judgment and decree before District Judge, Rewari, which was assigned to Addl. District Judge, Rewari, who disposed of the appeal, vide judgment and decree dated 10.01.2017, in view of the settlement arrived at between the parties, since respondent Vijay Kumar with counsel Sh. Mukesh Gupta, Advocate had made a statement, endorsing statement of the plaintiff stating that he would not be holding meeting of Nai Sabha on that day and would participate in the election of petitioner Nai Sabha to be organized by Registrar of Society. In view of such statement, the appeal was dismissed as withdrawn as compromised. However, a direction was

given to the Registrar of Society, Rewari to hold election process of plaintiff society within three months as per law and as per Constitution of plaintiff society.

Vijay Kumar had filed an execution application before Civil Judge (Jr. Divn.) Rewari against Nai Sabha Rewari and District Registrar, Firms and Societies, Rewari. During the pendency of proceedings, Sh. Vijay Kumar expired and his son Sh. Ravi Kant moved an application to implead him as legal representative of his father Vijay Kumar. That application was opposed and vide order dated 11.02.2019, the application was dismissed. The relevant portion of the order is as under:-

“The dispute in the main suit was between respondent society (plaintiff in main suit) and applicant/Award holder (defendant in main suit) and the compromise was also reached only between them. No individual member had any grievance with the respondent society (plaintiff in main suit). Only Shri Vijay Kumar was questioning the Presidentship of Shri Bhagwandass and respondent society (plaintiff in main suit) was questioning the self designation by applicant/Award holder (defendant in main suit) himself as President. The son of the plaintiff has not inherited any right to continue with the present execution petition with demise of his father. Therefore, on the demise of Shri Vijay Kumar, his son has no right to be impleaded in place of deceased Vijay Kumar. With demise of applicant/Award holder (defendant in main suit), the execution of Award can not be sought by heirs or individual members of respondent society (plaintiff in main suit) as they had no grievance against the respondent society (plaintiff in main suit). If any individual member has now any grievance against respondent society (plaintiff in main suit), he has a separate cause of action for which he may avail the remedy available to him under law but cannot continue with present

execution petition.

Accordingly, the application for impleading LRs is dismissed. Consequently, the execution petition is also dismissed.

The parties are left to bear their own costs.

File be consigned to record room after due compliance.”

This order left the revisionist aggrieved and he has approached this Court by way of filing the instant revision petition, notice of which was given to the respondents. However, only respondent No.2-State has put in appearance through counsel, whereas, nobody has appeared on behalf of respondent No.1 despite service.

I have heard learned counsel for the revisionist and learned State counsel besides going through the record and I do not find any merit in the revision petition, since the impugned order is quite detailed and well reasoned, based upon proper analysis of the factual as well as legal position. The order is certainly not perverse or in violation of settled legal position, which might have called for interference by this Court while exercising revisional jurisdiction. Therefore, finding no merit in the revision petition, the same stands dismissed.

19.11.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No