

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-27467-2019 (O&M)
Date of Decision: 07.11.2019

Sri Guru Hargobind Educational Society

--Petitioner

Versus

Union of India & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. R.S. Randhawa, Advocate for the petitioner.

Mr. Harinder Singh, Advocate for respondents no.4 to 6.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner-society filed the instant writ petition seeking a Mandamus for directing the respondent-Punjab National Bank to defreeze two accounts i.e. Current Account No.78962100100000439 and Saving Account No.7862000100013217 maintained by the school of the petitioner-society.

Apparently, respondent no.7 Manjit Singh instituted a suit assailing the action of the society in dismembering him and such suit is still pending before the competent court.

A communication dated 5.8.2019 appended at Annexure P-13 would reveal that the bank has frozen the accounts in question only for the reason that summons issued by the civil court, Ludhiana have been received by the bank.

The instant writ petition came up for preliminary hearing before this Court on 25.9.2019 and while issuing notice of motion to the respondent bank the submission of counsel had been noticed that as on that date no directions had been issued by the civil court with regard to freezing of the accounts and as such, the action of the bank was arbitrary and illegal.

Counsel had also put forth the difficulty being faced by the society in not being able to discharge its statutory obligations towards employees of the school.

On the subsequent date of hearing i.e. 4.10.2019 appearance was put in on behalf of the bank and time was sought to file a reply.

During the course of resumed hearing, Court has been apprised that after service of the bank in the instant writ petition, the bank has now chosen to file an application seeking directions from the court in the pending suit filed by respondent no.7 (Manjit Singh) whether to freeze or defreeze the saving account as also current account in question.

In such application, the following order has been passed by the civil court on 23.10.2019:-

*“IN THE COURT OF MS.BALJINDER KAUR,
PCS,CJJD, LUDHIANA*

CIS No.CS/4045/2019

Date of order:23.10.2019

Manjeet Singh Vs Major Gurcharan Singh

*Reg: Application on behalf of defendant No.5 for
defreezing of freezing of accounts.*

*Present: Sh. Jagdev Singh Adv. Counsel for plaintiff.
Sh. Deepak Makhija Adv. Cl. for defendants No.1 & 2
Sh. Girish Sood Advocate Counsel for defendant No.4.
Counsel for defendant No.5.*

ORDER

1. This order of mine shall dispose of an application moved by defendant No.5 Punjab National Bank, Branch, Pakhowal Road, Ludhiana seeking directions for either to freeze or de-freeze the Saving Bank Account No. 78620001000013217 and Current Account No. 7862002100000439 held with it in the name of Sri Guru Hargobind Educational Society. I heard the Ld. Counsels for the parties and have carefully gone through the file. The applicant/Defendant No.5 in the application has contended that the present suit has been filed by plaintiffs against defendants amongst whom the applicant bank has been arrayed as defendant No.5 by them and that besides this suit a writ petition bearing CWP-27467/19

titled as 'Sri Hargobind Educational Society Vs. Union of India etc.' has also been filed in the Hon'ble Punjab & Haryana High Court, Chandigarh regarding the subject matter in which Hon'ble Mr. Justice Tajinder Singh Dhindsa, had adjourned the said Writ Petition vide order dated 15.10.2019 to 07.11.2019 for consideration and therefore directions be given to the applicant/defendant No.5, for freezing or defreezing the bank account of the said Society.

2. *Upon notice plaintiffs filed reply stating therein that the defendants No.1 to 3 have no authority to operate the bank accounts exclusively at their own. The account books were being operated by plaintiff No.1 and defendant No.1 jointly but now these accounts are illegally being operated by defendant No.1 who has no right for the same by excluding the plaintiff No.1 from operating these bank accounts. In this way the defendant No.1 along with defendants No.2 and 3 and other defendants are causing serious prejudice to the rights of the plaintiff and have also cause serious loss to the society and the school. In order to protect money from being wasted at the hands of defendants NO.1 to 3 it is desirable to freeze the accounts till decision of the matter by the Hon'ble court as such direction be given to bank authorities to freeze the accounts of the society till decision of the matter by Hon'ble court. Lastly it is prayed that directions be given to Bank authorities to freeze the accounts of the society till decision of the matter.*

3. *I, have heard the Ld. Counsels for the parties and have gone through the judicial record carefully. Both the parties to the suit are appearing on the preponed dates and are aware of the proceedings of the case and as such application for preponement moved by plaintiff also stands disposed off. Ld. Counsel for the defendants No. 1 & 2 appeared and stated that he is also representing defendant No.3, but neither said defendants filed any reply nor they have filed any written statement in the main suit. Perusal of the file shows they have been appearing in the court on earlier dates after moving of the application for preponement. However they did not file any reply. On the other hand defendant No.5 bank requested to dispose off the application qua bank accounts mentioned in the application. Ld. Counsel for the applicant/defendant No.5 bank stated that matter between the parties is also pending in the Hon'ble High Court and the bank is supposed to file reply regarding accounts in question before the Hon'ble High Court. The plaintiff as well as defendnt No.5 also requested for disposing off the application today itself in view of the urgency involved. In view of the above facts and circumstances and keeping in view the fact that public money is involved, this court deems it fit to direct the both the parties that the accounts in question may not be operated without prior permission of the court till disposal of the application u/o 39 rule 1 and 2 CPC, pending in the present case, as interim relief qua said accounts has also been sought in the said application and the matter qua operation of the accounts in question is also to be considered while deciding said application. Today reply to application u/o 11 rule 14 CPC has also been filed. Now the case is adjourned to 31.10.2019 for consideration on application u/o 11 Rule 14 CPC. as well as for filing written statement on behalf of*

defendants. Ahlmad is directed to send a copy of this order to the concerned bank.

*Sd/-
Baljinder Kaur
Civil Judge (Jr.Division),
Ludhiana
(UID No.PB0329)*

Date of order:23.10.2019”

Prima facie, this Court is of the view that the filing of the application at the hands of the respondent bank was an after thought and only after they had been served of the proceedings in the instant writ petition. In all fairness the bank ought to have sought directions/clarification as regards freezing of the accounts prior to having already done so. An application was moved only on 22.10.2019, whereas the accounts had already been frozen prior in point of time i.e. on 5.8.2019.

Be that as it may, the civil court at Ludhiana is now seized of the issue. Court has been informed that an application has also been filed by defendants no.1 and 2 in the suit and who happen to be the Chairman and President of the petitioner society seeking permission of the court for defreezing and for operating the accounts in question.

In view of the peculiar facts and circumstances of the case, the instant writ petition is disposed of with a direction to the Trial Court at Ludhiana to decide the application moved on behalf of the President of the petitioner society expeditiously and in any case within a period of six weeks from today.

Petition is disposed of.

**(TEJINDER SINGH DHINDSA)
JUDGE**

07.11.2019

lucky

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No