

Item No. 8
29.09.2023
Court. No. 19
GB

C.O. 1099 of 2023

Md. Asim
Vs.
Md. Nasir Khan & Ors.

Mr. Abhisek Banerjee

...for the Petitioner.

Mr. Shoham Sanyal

...for the Opposite Party Nos.1 to 8.

*Mr. Ratul Biswas,
Mr. Kaushik Chowdhury*

...for the Opposite Party No.9.

This revisional application arises out of an order dated December 20, 2022, passed by the learned Civil Judge (Junior Division), 3rd Court at Howrah in Title Suit No.31 of 2022.

By the order impugned, the learned court below allowed an application filed by the Chairman, District Primacy School Council for being added as a party to the proceeding. The petitioner is aggrieved with such addition, for the following reasons:-

- a) The Chairman, District Primacy School Council was a stranger to the suit.
- b) The suit was filed against an alleged trespasser in respect of a property situated at Holding No.54, Srinath Porel Lane, Howrah, 711101.
- c) The issue involved in the suit would not require the presence of the District Primacy School Council for effective adjudication.

d) That no relief has been claimed against the Chairman, District Primacy School Council.

The learned advocate for the added party submits that the Chairman, District Primacy School Council, is not only a proper party, but also a necessary party. The land was donated to the school authorities for running a Urdu medium school, by the predecessor-in-interest of the petitioner. The school was affiliated to the Council. The functions of the Council related to appointment of teachers and other matters dealing with the teachers and students of the said school.

Although, the plaint case is that the school is not functioning and a trespasser had taken possession, the Council on the other hand submits that the school is regularly functioning and that was why the orders of the court had been communicated to the Council by the plaintiff/petitioner.

Records also reveal that the petitioner had approached the Council by filing an application under the Right to Information Act for necessary information as to the number of students, teachers, employees etc.

Having heard the learned advocates for the respective parties, this Court is of the view that there has been a specific contention in the plaint that the school is not operating from Holding No.54, Srinath Porel Lane and the school rooms were under lock and key. A trespasser had taken possession thereof. It is also available that the grandfather of the

petitioner had allowed the school to function from the Holding Nos.53 and 54, Srinath Porel Lane.

It is submitted that the school was shifted from Holding No.53 to Holding no.54 on account of the dilapidated condition of the building on Holding no.53. Repairs were undertaken. Thereafter, the school was again asked to be shifted to Holding no. 53. The same was not done, as there were no students. The building at Holding no.54 was thus under lock and key and a trespasser entered into the premises.

The Chairman's case is that the school is functioning. There are teachers and students who regularly attend the school.

Under such circumstances, this Court is of the view that any order that is passed in the suit may adversely affect the rights and contentions of the teachers and students. Thus, the order impugned does not suffer from any irregularity. It is not a case that the scope of the suit would be altered, if the Chairman is allowed to contest the suit. Secondly, if any order is passed in the present suit, which adversely affect the school or the authorities, the authorities will always have the right to file another suit. In order to save multiplicity of proceedings as well, the addition is justified.

The decision in the matter of ***Smt. Durga Das & Ors. versus M/s. Solace and Associates*** reported in ***(2012) 3 WBLR (Cal) 501***, does not help the petitioner. Paragraph 13 of the said decision deals with the situations

when an application under Order 1 Rule 10 could be allowed. The court recorded that it was a matter of judicial discretion and had to be exercised in the facts and circumstances of a case. The grounds for addition were that the party added should have a direct interest in the subject matter of the litigation and not a commercial interest. The presence of the party added was necessary for complete and effective adjudication of the dispute. The controversy could affect not only the parties, but generations to come.

All these situations, in my opinion, have been satisfied by the Chairman, District Primacy School Council, inasmuch as, the contention of the plaintiff that the school was under occupation of a trespasser, the same did not shift to Holding no.53 and was not functioning from Holding no.54, as there were no students and teachers, must be adjudicated in the presence of the Council.

Accordingly, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)