

25.07.2023
Court No. 19
Item No. 01
CP

C.O. 1292 of 2021

Ashadulla Beg & anr.

Vs.

Ramchandrapur Moktob now Moktobe Rustumiya
Hefjul Koraniya Madrasa represented by its Secretary
Baseda Sha & ors.

Mr. Jahar Lal Ray

Ms. Kavita Rani

....for the petitioners.

This revisional application has been filed challenging an order dated February 11, 2021, passed by the learned Civil Judge (Junior Division), Haldia in Title Suit No. 289 of 2018.

The plaintiff in the suit is Ramchandrapur Moktob now known as Moktobe Rustumiya Hefjul Koraniya Madrasah. The plaintiff/ madrasah was represented by the Secretary Baseda Sha, son of Taleb Sha. Subsequently, the Secretary of the madrasah changed and the new incumbent to the post of Secretary filed an application to substitute himself in place of the erstwhile secretary in order to represent the madrasah.

The learned court below, on the basis of the original resolution register, filed by the applicant, allowed the application for substitution of Syed

Maidul Rahaman, son of late Usiar Rahaman, to represent the madrasah as the Secretary.

Mr. Ray, learned advocate for the petitioners, submits that such resolution was bad in law. That the power of the mutwalli could not be delegated. That the application for substitution of the alleged present Secretary who would represent the madrasah in the suit, should have been rejected.

The issues which have been raised by Mr. Ray are to be decided in the suit. The madrasah was being represented by the erstwhile Secretary. By a subsequent resolution, the Secretary was replaced by the applicant who filed an application before the court for substitution so that he could represent the madrasah. This court does not find any illegality in the order passed by the learned court below, in allowing such prayer. The madrasah has to be represented by the Secretary. The carriage of proceedings is in the hands of the plaintiff. Whether the applicant/the present Secretary has any locus to represent the madrasah or not, will be decided in the suit, upon framing of issue on the question raised by the petitioners. The suit must be allowed to proceed. If the application was not allowed, there would be none to carry on the suit on behalf of the madrasah.

The revisional application is accordingly dismissed.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)