

20.12.2023
Sl. No.6(DL)
Gb/srm

C.O. No. 2528 of 2023

Bharatiya Bigyan O Yuktibadi Samiti

Versus

**Registrar of Societies, Farms and
Non-Trading Corporations & Ors.**

Mr. Saumyen Datta,
Mr. Ujjwal Kumar Sakar,
Mr. Srijit Halder

...for the Petitioner.

The revisional application has been filed challenging an order dated July 3, 2022, passed by the learned Judge, 7th Bench, City Civil Court at Calcutta in Title Suit No.570 of 2018. By the order impugned, the application filed by the plaintiff to expunge the name of the defendant no.2 from the array of the defendants in the plaint of the said suit was rejected. By the same order, an application under Order 1 Rule 10(2) of the Code of Civil Procedure, filed by one Dilip Das Mondal who allegedly stepped into the shoes of the defendant no.2, was allowed.

The petitioner submits that the defendant no.2 was added in his personal capacity, with specific allegations against him and his overt acts. That he was not impleaded in the suit as the President of the society. Hence, the

question of addition of the subsequent alleged president would not arise. The plaintiff did not have any allegation against Dilip Das Mondal. The defendants had filed their written statement jointly and the other defendants were competent to contest the suit. Dilip Das Mondal was a stranger to the suit. The carriage of proceeding is in the hands of the plaintiff and the plaintiff does not want to proceed against any other person, be it the president or any other member of the society. The allegation of the plaintiff was solely against the defendant no.2, which did not survive after the defendant no.2 died.

The learned court rejected such claim of the plaintiff on the ground that the case had been instituted for declaration that the notice dated February 8, 2018 issued upon the Registrar of Societies, Firms and Non-trading Corporations, was binding on the defendants and enforceable in the eye of law. Secondly, injunction was prayed for against the defendant nos.2 to 13 and their men and agents restraining them from using the name of the plaintiff society, from collecting money, from operating the bank account and from publishing books in the name of the society etc.

According to the learned court, such prayers were against those members of the society who claimed to have managed the society, with the defendant no.2 as its president. Thus, upon the demise of the defendant no.2, Dilip Das Mondal who claimed to be the president of the society was allowed to be added.

This Court finds from the perusal of the plaint that prayer (a) of the plaint is for implementation of a letter issued by Debasis Bhattacharya claiming to be the General Secretary of the society (plaintiff) to the defendant No.1, i.e. the Registrar of Societies, Firms and Non-Trading Corporations to accept the returns which were filed for the year 2005-06 to the year 2015-16 and not to accept any subsequent annual returns from the defendant No.2 and his allies. Thus, this prayer does not restrict itself to any claim against the defendant No.2 for actions of the defendant No.2 in his personal capacity. Returns were filed, if any, by the defendant No.2 and his allies in the official capacity.

The prayer for injunction restraining the defendant Nos.2 to 13 and/or their men and agents and associates from using the name of the society, the logo of the society, the registration number of the society, from operating the bank account of the society, etc. were all prayers relating to

functions of those members as also the defendant No.2 as the president of the society. Thus, the addition of Dilip Das Mondal who claims to be the present president of the society, is not erroneous. Dilip Das Mondal claims to have stepped into the shoes of the defendant No.2, since deceased, and the plaintiff case as also the defence case would indicate that there are several averments with regard to the functioning of the defendant No.2 in the official capacity. Also, injunctions have been prayed for against the said defendant No.2 and the members as also their men and agents from acting in any manner with regard to using the logo of the society, the registration number of the society, operating the bank account of the society, etc. These prayers are not restricted to any particular individual, but to the members of the society and those persons who are allegedly trying to run a parallel management within the society.

Under such circumstances, the defendant No.2, who has expired, was also impleaded in the capacity of the president even if it was not expressly stated in the plaint. The present president shall contest the suit and be bound by the written statement which was filed by the defendants.

The issue with regard to the correctness of the claims and counterclaims of the parties as regards the management

by each group or the status of the president, are subject matters of adjudication in the suit. The addition of Dilip Das Mondal will not prejudice the suit.

The plaintiff is granted liberty to amend the plaint by incorporation of the name of the added defendant within a period of three weeks from the date of communication of this order.

The order impugned is upheld.

Accordingly, the revisional application is dismissed.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)