

30.08.2023
Court No. 19
Item No.8
CP

C.O. No. 3016 of 2023

Swami Gurudasananda, Special
Officer/Receiver disciple of Swami Nirvasananda
Vs.
Baganchara Ramakrishna Sarada Ashram &
ors.

Mr. Saktinath Mukherjee, Sr. Advocate
Mr. Bhaskar Ghosh, Sr. Advocate
Mr. Sibasis Ghosh
Mr. Biswabrata Basu Mallick

....for the petitioner.

The revisional application has been filed challenging an order dated August 2, 2023, passed by the learned Judge, 2nd Bench, City Civil Court at Kolkata, in Title Suit No. 35195 of 2014.

By the order impugned, the learned Judge fixed the application for hearing under Order 1 Rule 10(2) of the Code of Civil Procedure filed by one Avik Basu, for addition of party. The said application has been kept pending.

Mr. Mukherjee, learned senior advocate for the petitioner, submits that the pendency of the application has delayed the disposal of the suit. He also submits that on the basis of an order dated January 28, 2019, passed in the suit, the erstwhile Trial Judge was of the opinion that the issues involved in the suit could be resolved if Ramakrishna Mission, Belur Math agreed to take over the Ashram. The plaintiff is a registered society and involved in

spiritual and religious activities. At that juncture, when the opinion of the general secretary of the Ramakrishna Mission, Belur Math was sought for by the learned court, the application for additional of party was filed by a rank outsider, only to stall the proceedings.

It has been further submitted that the consent of the general secretary of Ramakrishna Mission, Belur Math to take over the management is also a matter of record. Relying on a decision of the Hon'ble Apex Court in the matter of Kasturi Vs. Iyyamperumal & ors., reported in (2005) 6 SCC 733, and a decision in the matter of B. Somaiah & anr. vs. Smt. Amina Begum, reported in AIR 1976 Andhra Pradesh 182, Mr. Mukherjee submits that a person who was not involved with the dispute with regard to management of the Ashram between two groups, did not have any locus to be added in the suit as the disputes were not required to be decided in his presence at all. The cause of action in the suit was completely different and Avik Basu wanted to add himself as a party claiming right, title and interest through his predecessor in a particular plot of land.

Reliance has been placed on the schedule of the plaint and the contentions in the application under Order 1 Rule 10(2) of the Code of Civil

Procedure to substantiate that the properties involved, were also distinct and separate.

This court is of the view that the submissions of Mr. Mukherjee deal with the merits of the application under Order 1 Rule 10(2) of the Code of Civil Procedure. The said application is yet to be heard and decided by the learned court below.

This court, at this stage, cannot pre-judge the issue. Only a direction upon the learned court below can be passed to decide the application for addition of party within a period of two weeks from date. Upon disposal of the said application, the suit shall be disposed of expeditiously on the basis of the records and the submissions made by the parties.

It is needless to mention, that while deciding the application for addition of party, the petitioner will be at liberty to raise the points raised before this court with regard to the maintainability and the merits of the application for addition of party.

This order shall not be construed as a view of this court on the merits of the pending application as also on the merits of the suit. The learned court below shall proceed independently and in accordance with law.

A copy of this revisional application, along with a server copy of this order be served upon Avik Basu and upon the learned advocate appearing on behalf

of Avik Basu, in the learned court below. The petitioner is at liberty to communicate this order, through its learned advocate-on-record.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)