

15.12.2023
Item No.25.
Court No.6.
AB

**F.M.A. 782 of 2023
With
CAN 1 of 2023**

**Bharatiya Bigyan O Yuktibadi Samity
Vs
Registrar of Societies,
Farms & Non-Trading Corporations & Ors.**

Mr. Soumyen Datta,
Mr. Ujjwal Kumar Sarkar,
Mr. Srijit Halderfor the Appellant.

Mr. Samiran Mondal,
Mr. Somen Bose,
Ms. Ankita Mukherjee
....for the Respondent Nos.3 & 5.

This First Miscellaneous Appeal is directed against an order dated August 11, 2023, whereby the learned City Civil Court, Calcutta rejected the injunction application of the appellant herein.

The appellant herein filed Title Suit No.570 of 2018 to restrain the respondents herein from using the name of the appellant and, inter alia, collecting money in the name of the appellant from the members of the public. The appellant is a Society registered under the West Bengal Societies Registration Act, 1961. It instituted the suit through one Debasish Bhattacharjee, who described himself as the General Secretary of the Society.

At the hearing of the injunction application, the learned Judge looked into the records and came to the conclusion that there is nothing to show that Debasish

Bhattacharjee is, in fact, the General Secretary of the Society or that he is otherwise authorized to maintain the suit on behalf of the Society. After referring to Section 19 of the West Bengal Societies Registration Act, 1961, the learned Judge rejected the injunction petition observing as follows:

“As per the said provision only President, the Secretary, or any office-bearer authorised by the Governing Body in this behalf can sue in the name of the society. Thus, said provision restricts any other person from suing in the name of the society. Therefore, there must be specific averment and prima facie supportive document to establish locus standi to institute suit in the name of the society. That being lacking, I find that the plaintiff has no prima facie case for getting temporary injunction in its favour.”

Being aggrieved, the plaintiff in the suit has come up by way of this appeal.

We have heard learned Counsel for the parties. Learned Advocate for the appellant/plaintiff has placed before us a Resolution dated March 18, 2018, passed by the Central Committee of the plaintiff-Society authorizing Debasish Bhattacharjee to institute a suit against the present respondents in the City Civil Court at Calcutta, for declaration and injunction.

We have also been shown Minutes of a Meeting dated August 18, 1996, whereby Debasish Bhattacharjee was appointed as the General Secretary of the Society.

In other words, there is sufficient material on record at least to show prima facie that Debasish Bhattacharjee is the General Secretary and/or

otherwise authorized to maintain the suit on behalf of the plaintiff-Society. Necessary averment to that effect is also there in the plaint.

Accordingly, we set aside the order under appeal and direct the learned Trial Court to hear out the injunction application afresh, on merits. We make no observation on the merits of the injunction application. It is for the learned Trial Court to decide the same in accordance with law.

Mr. Mondal, learned Advocate appearing for the respondent nos.3 and 5 says that in 1996, the plaintiff-Society had instituted a similar suit on the selfsame cause of action. That suit has been dismissed. We have noted Mr. Mondal's submission but the same pertains to the merits of the case. We have not entered into the merits of the case at all. Mr. Mondal, learned Advocate, will be at liberty to urge this point and all other points before the learned Trial Court at the time of hearing of the injunction application.

Since the injunction application has been pending for a long time, the learned Trial Court is requested to hear out and dispose of the same within two months from the date of communication of this order.

FMA 782 of 2023 is disposed of along with the connected application.

Since we have not called for affidavits, the allegations in the connected application are deemed not to be admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(M. V. Muralidaran, J.)