

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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C.R. No.1414 of 2023

Date of decision: 03.03.2023

Jai Bhagwan Garg

....Petitioner

V/s

Shri Sanatan Dharam Education Society
(Regd.) and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. H.S. Saini, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

This is a petition preferred under Article 227 of the Constitution of India, praying for issuance of an appropriate direction to the lower appellate Court to decide/dispose of the application dated 30.11.2018 (Annexure P-3) in a time bound manner, in view of the observations made by the Apex Court in order dated 26.11.2018 (Annexure P-2), passed in SLP(C)Nos.30414-2018.

Learned counsel for the petitioner submits that the suit preferred by the plaintiff-petitioner was decreed by the trial Court. Challenge in the suit was regarding induction of thirteen members who were added as defendants in the suit as well to the election process. On an appeal preferred there-against, while allowing the appeal, it was held that in view of Section 24 of the Societies Registration (Haryana Amendment) Act, 2007, the suit was not maintainable. Thereafter, the matter was carried in second appeal to this Court and on remaining un-successful in the same, to the Apex Court by way of SLP(C)Nos.30414-2018. The Apex Court disposed of the SLP vide order dated 26.11.2018, which reads as thus:-

“Since the term of the elected body is over, the matter has become infructuous. Learned counsel for the petitioner submits that he had challenged the induction of thirteen Members as well. However, the Registrar has refused to entertain the said request vide his communication dated 13.05.2016 on the ground that enrolment of those Members is prior to 28.03.2012, i.e., prior to the date of enforcement of Haryana Registration and Regulation of Societies Act, 2012 (“HRRS Act”) and this communication further states that the appropriate remedy is to file a civil suit.

It is pointed out by the learned counsel for the petitioner that the petitioner had earlier approached the civil court by filing a suit before learned Additional District Judge. In that suit, the petitioner had made two prayers. One prayer is for setting aside the election and the other was challenging the validity of the induction of the Members. He submits that insofar as the election is concerned, the matter has become infructuous. The matter pertaining to the induction as Members can still be looked into by the learned Additional District Judge.

In these circumstances, we permit the petitioner to move an appropriate application before the appropriate Court in the said civil suit for deciding the issue of Membership on its own merits.

With these observations, the Special Leave Petition stands disposed of.

Pending applications, if any, stand disposed of.”

Learned counsel for the petitioner would submit that pursuant to the aforesaid direction, he moved an application before the concerned first appellate Court for summoning the case file and to decide the case in terms of the order passed by the Apex Court. Notice of the same was issued to the respondents therein. After due service on the respondents, vide order dated 20.01.2020, the said application was posted for arguments. Thereafter, the

said application has not been decided and matter is being adjourned on every subsequent date by noting 'arguments not advanced'.

Learned counsel for the petitioner contends that he has always been ready for advancing arguments and a direction be issued to the first appellate Court to hear and decide the said application expeditiously. The petitioner undertakes not to seek an adjournment for advancing arguments.

At this stage, Mr. Abhishek Sethi, Advocate and Ms. Amrita Nagpal, Advocate have put in appearance on behalf of respondent Nos.1 and 2 and respondent No.12, respectively. They submit that the petitioner has not been fair in his pleadings and has not disclosed subsequent developments. It is contended that the petitioner had filed another suit thereafter on similar pleadings, in which proceedings the plaint has been rejected vide order dated 22.10.2020 and the petitioner accepted the said order by not challenging it before any superior Court. The application pending before the Court below is sought to be opposed as such.

Be that as it may, the only relief sought in the present revision petition is issuance of directions for a time bound decision of the application instituted in terms of the liberty granted by the Apex Court. Except for submitting against the application pending before the Court below, no legal impediment has been pointed out for the said application not being heard and decided in accordance with law.

In light of the above, I am of the considered view that it is open to all the parties to contest the application on merits before the first appellate Court and this Court refrains from going into the merits at this stage, in the present proceedings, lest any prejudice is caused to either of the parties.

In view of the above noted position, the present petition is allowed and a direction is issued to the first appellate Court to dispose of the application registered as CIS No.120-18 in CNR No.HRPP01-006803-2018 expeditiously, preferably within a period of four months from today. The petitioner would remain bound by his undertaking noticed above that he will not seek unnecessary adjournment for advancing arguments regarding his application.

The revision petition is disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

March 03, 2023
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No