

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No. 5875 of 2022 (O&M)

Date of decision : 12.1.2023

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Manav Nirman Samiti

.....Petitioner

vs.

Balbir Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ajay Jain, Advocate for the petitioner.

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H. S. Madaan, J.

1. Briefly summed up, the facts of the case are that, plaintiffs – Balbir Singh and two others, had brought a suit against Manav Nirman Samiti, Jevra, Tehsil Barwala, District Hisar through its President Dr. C.P. Gupta, seeking possession by way of specific performance of agreement to sell dated 19.11.2013, in respect of land measuring 37 Kanal 8 Marla situated at village Bichpari, Tehsil Barwala, District Hisar, etc. In the suit, the plaintiffs had arrayed certain other person as proforma defendants. On getting notice, defendant appeared and filed written statement contesting the suit. Issues on merits were framed and trial of the suit began. During the course of proceedings, an application under Order 1 Rule 10 CPC read with Section 151 CPC was filed by applicant Manav Nirman Samiti through Danish Gupta. Inter alia it was contended that the applicant had come to know recently, about pendency of the suit,

which was so filed by plaintiffs in collusion and connivance with proforma respondents against the same Samiti by representing the same through Dr. C.P. Gupta, with regard to the alleged agreement to sell dated 19.11.2013; applicant is President of Samiti for last considerable time and has been looking after all the affairs with regard to the society; no such agreement as alleged in the plaint was legally executed and entered into by Dr. C.P. Gupta, who was not competent to do so. The land under dispute pertains to the educational Samiti which was engaged in business to provide education to over 2000 students; no stamp of society was there on the agreement and not even a single paisa was deposited in account of the society at any point of time; no stamp duty was paid and it is a case of fraud and mis-representation and that the President of Samiti is necessary to be impleaded in the suit, otherwise, the applicant shall suffer irreparable loss and injury. Therefore, the application be accepted.

2. The application was resisted by the plaintiffs, contending that the application has been got filed by Dr. C.P. Gupta, President of Manav Nirman Samiti thorough his son Danish Gupta. Defendant No.1 wants to change the defence in the garb of filing the application. As a matter of fact, Dr. C.P. Gupta and Danish Gupta are living under the same roof and no ground is made out to allow the application.

3. After hearing learned counsel for the parties, the trial Court vide impugned order dated 23.11.2022, dismissed the application. The operative part of the order runs as follows:-

“6) A perusal of the file reveals that the present suit for possession by way of specific performance of agreement to sale dated 19.11.2013 which was allegedly executed by defendant no.1 i.e. Manav Nirman Samiti through its President Dr. C.P. Gupta. The alleged agreement to sale has been executed between the plaintiffs and Manav Nirman Samiti through its President Dr. C.P. Gupta and said agreement is duly signed by both the parties. Dr. C.P. Gupta has executed and signed the agreement to sale in the capacity of the President of Manav Niramn Samiti and not in his personal capacity. The written statement was also filed by Samiti in the year 2015 in which the aforesaid C.P. Gupta has signed the same being the president of defendant no.1 Samiti. The issues in the present case were framed on 25.04.2016 and thereafter the evidence of plaintiff was completed on 27.10.2022 and the case went for evidence of defendants when the present application has been filed by applicant by stating himself to be President of defendant no.1 society. However, in the entire

application, it has nowhere been mentioned as to when the present applicant became the president of Samiti. There is no document attached with the application in this regard. No resolution of the society has been annexed with the application to show that the earlier president has been replaced by the applicant. The written statement has already been filed by the Samiti through Sh. Dr. C.P. Gupta. The applicant is praying for impleading the Samiti through the applicant. The Samiti is already a party through its President and applicant has not brought anything to show that the President already impleaded in the main suit is not President of society at all. Moreover, the alleged agreement to sale has been signed by CP. Gupta and he executed to agreement to sale being the president of Samiti. Therefore, application for impleading some other person as president of Samiti at this stage, is not maintainable and is hereby dismissed.”

4. Feeling aggrieved by the abovesaid order dated 23.11.2022, passed by Civil Judge (Junior Division), Hisar, Danish Gupta has preferred the present revision petition.

5. After hearing learned counsel for the revision petitioner

and going through the record, I find that there is no merit in the revision petition and the same is liable to be dismissed. The order under revision is quite detailed and well reasoned. It does not suffer from any illegality or infirmity, which might have warranted interference by this Court by exercising the revisional jurisdiction.

6. Furthermore report from the trial Court has been called, which has informed that as per case file, no copy of resolution appointing Dr. Danish Gupta, as President of the Society has been attached with the application. It being so, how Danish Gupta can claim himself to be the President of the Society and ask for being brought on record as such. The application is totally misconceived and seem to have been filed to prolong the proceedings. Furthermore, it has been filed at a highly belated state, when the case was fixed for evidence of defendants.

7. The applicant has failed to show that Dr. C.P. Gupta, President of the Society has misconducted himself or that he is colluding with the plaintiffs. Even otherwise, the applicant is son of said Dr. C.P. Gupta.

8. Therefore the revision petition is doomed for failure and is dismissed accordingly.

12.1.2023
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(H.S. Madaan)
Judge

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