



\$~63

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 06.11.2023

+ **CM(M) 1803/2023, CM APPL. 57184/2023 & CM APPL. 57185/2023**

JAWAHARLAL NEHRU NATIONAL YOUTH CENTRE & ANR.

..... Petitioners

Through: Mr. Narender Hooda, Sr. Advocate
with Ms. Seema Sindhu, Advocate

versus

PRAVEEN SINGH ARON & ORS.

..... Respondents

Through: Mr. Paritosh Budhiraja and Mr.
Shashikant Bhardwaj, Advocates with
Mr. Praveen Singh Aron, in person
Mr. Ujjwal Kumar, Mr. Abhinav
Kumar Srivastava and Mr.
Dharmendra, Advocates

%

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 57185/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1803/2023, CM APPL. 57184/2023

1. The present petition impugns the order dated 22.07.2023 under Article 227 of the Constitution of India passed by the Additional District



Judge – 01 , Patiala House Courts, New Delhi in CS 57975/2016, titled as *Jawahar Lal Nehru National Youth Central & Ors v. Sh Narain Dutt Tiwari & Ors* ('Trial Court') whereby the Trial Court adjourned the suit proceedings with directions to the parties to first avail the appropriate legal recourse to ascertain who will represent plaintiff no.1 to proceed further in the matter.

1.1. The plaintiff no.1 before the Trial Court is Jawahar Lal Nehru National Youth Centre which is Petitioner no. 1 herein. The aforesaid civil suit was filed by plaintiff no.1 through its then Vice president and General Secretary Smt. Indira Mayaram seeking Declaration and Permanent Injunction against the Respondents therein.

1.2. Smt. Indira Mayaram has since passed away. The Petitioner no. 1 has taken a stance before the Trial Court that the plaintiff no.1 is being represented in the said civil suit by Sh. Arvind Mayaram.

1.3. The defendant nos. 2 and 4 in the civil suit, Sh. Praveen Singh Aron has specifically raised an objection to the representation of plaintiff no.1 by Sh. Arvind Mayaram.

1.4. In view of the objections raised by defendant nos. 2 and 4, the impugned order dated 22.07.2023 has been passed by the Trial Court which reads as under:

“ADDITIONAL DISTRICT JUDGE, PHC, NEW

DELHI

CS 57975/16

Jawahar Lal Nehru National Youth Central

Vs.

Sh Narain Dutt Tiwari (DHC)

22.07.2023 at 11.41 a.m.

Present: Ms. Seema Sindhu, Ld. Counsel for the plaintiff no. 1 representing the working President Sh. Arvind Maya Ram.



Sh. Ujjwal Kumar, Ld. Counsel for defendant no.2 also claiming to be representing plaintiff no. 1 through General Secretary / defendant no.2 alongwith Sh. Purshottam Goyal / defendant no.2. Sh. Gyanender, Ld. Counsel also claiming to be representing plaintiff no.1 / defendant no.4 namely Praveen Singh Aron.

Defendant no.4 in person also claiming to be the General Secretary of plaintiff no. 1 alongwith Sh. Shashi Kant, Ld. Advocate.

Sh. Pradeep Sharma, Ld. Counsel for defendant no. 7.

None for the other defendants.

Fresh Vakalatnama has been filed on behalf of plaintiff no.1 signed by Sh. Praveen Singh Aron. The same is strongly objected to by counsel Ms. Seema Sindhu.

There is another vakalatnama in the name of Advocate Sh. Shashi Kant filed on 19.07.2023 on behalf of defendant no.4 Sh. Praveen Singh Aron.

Thus, there are two vakalatnamas placed on record on behalf of Sh. Praveen Singh Aron. He also contends that he is General Secretary of plaintiff no.1 since 1988 which is vehemently opposed by Ms. Seema Sindhu and Sh. Ujjwal Kumar, Ld. Advocates also claiming to be representing plaintiff no.1.

On behalf of defendant no.7, copy of transfer petition has been moved seeking transfer of this matter from this Court. The same has also been perused. Paragraph no. 3 & 4 of the application has been perused. This Court also takes strong objection to averments in paragraphs no. 3 & 4 of the application which is baseless and without merit. It is clarified that this Court had only informed the parties who were pleading urgency to seek the matter transferred to any other Court as due to heavy board of this Court, matter cannot be rushed through.

At this stage, as there are three parties claiming having control over plaintiff no.1. The Court therefore, deems it appropriate for the parties to first avail the appropriate legal recourse to ascertain who would represent plaintiff no.1 to proceed further in the matter.

Matter be listed on 30.10.2023.

*(Vijeta Singh Rawat)
Additional District Judge-01
PHC/New Delhi/22.07.2023”
(Emphasis Supplied)*

2. Learned senior counsel for the Petitioners states that the Trial Court before which the aforesaid suit is pending is competent to adjudicate the objections raised by the defendant nos. 2 and 4 with respect to the alleged lack of authority of Sh. Arvind Mayaram to maintain the suit on behalf of



plaintiff no.1.

2.1. He, however states, that the Trial Court has adjourned the proceedings and failed to determine the correctness of the objections raised by the defendant nos. 2 and 4. He states that the plaintiff has been left remediless.

3. In reply, defendant no.4 who appears in person and learned counsel for defendant no.2 states that that Sh. Arvind Mayaram is neither a member nor an office bearer nor a trustee of plaintiff no.1, therefore, he cannot act as an authorized representative of plaintiff no.1 to represent it the aforesaid civil suit.

3.1. He states that Sh. Arvind Mayaram is the son of the erstwhile trustee i.e., Smt. Indira Mayaram. He states that, however, the post of the trustee does not devolve by inheritance and therefore the claim made by the Sh. Arvind Mayaram that he is entitled to represent plaintiff no.1 is incorrect and misleading. He states that in fact, Sh. Arvind Mayaram has never been in charge of the affairs of plaintiff no.1.

3.2. He states that no document has been placed on record of the Trial Court which will evidence any resolution appointing Sh. Arvind Mayaram as the working president of plaintiff no.1. He states that in fact the defendants apprehend mischief to public at large if Sh. Arvind Mayaram is permitted to hold himself out as the working President of plaintiff no.1.

4. In addition, learned counsel for defendant no. 2 states that the averments in this petition challenging the position/office of defendant no.2 are contrary to the documents placed on record by the Petitioner No.1 at Annexure A-6.

4.1. He states that the suit in the name of the plaintiff no.1 was initially instituted by Smt. Indira Mayaram who was the trustee of the plaintiff no.1.



He states that, however, after her death, the defendants dispute that Sh. Arvind Mayaram is entitled to prosecute and represent plaintiff no.1 in the aforesaid civil suit.

5. Learned counsel for defendant no.2 and defendant no.4 both state that the amended Constitution of plaintiff no.1 has been challenged by defendant nos. 2 and 4 and the said issue is subjudice before the Coordinate bench of this Court in W.P.(C) 12450/2023 and W.P.(C) 12469/2023.

6. This Court has considered the submissions of the parties and perused the impugned order.

7. The issue before this Court is limited with respect to examining whether the impugned order passed by the Trial Court effectively adjourning the aforesaid civil suit proceedings sine-die in view of the objections of locus raised by defendant no.4 is sustainable in eyes of the law or not.

8. The sum and substance of the objections raised by both defendant no.2 and defendant no.4 is that Sh. Arvind Mayaram has no locus to prosecute the suit in the name of plaintiff no.1.

9. To a query from this Court with respect to the fact that if there are any other legal proceedings pending between the parties where the similar issue of representation of plaintiff no.1 is pending for consideration; to which defendant no.4 fairly admits that there are no separate proceedings pending, however, he states that he is proposing to initiate a civil proceeding in this regard.

10. In the opinion of this Court, there is no dispute that the Trial Court is competent to decide the objection raised by the defendants herein with respect to the locus of Sh. Arvind Mayaram to represent plaintiff no.1 and or continue the suit in the name of plaintiff no.1. In fact, it is an issue which



arises directly in the suit pending before the said Court and therefore, it is the Trial Court, which is competent to decide the said issue after examining the evidence.

11. In view of the above and in order to allay the concerns of defendant nos. 2 and 4, this Court is of the opinion, that the pendency and the continuation of the proceedings should not perpetuate any illegality by Sh. Arvind Mayaram, therefore, it would be appropriate if the issue of the authorisation of Sh. Arvind Mayaram to represent plaintiff no.1 is framed as a preliminary issue and evidence limited to the said issue is therefore led by the parties. The Trial court will decide the preliminary issue which reads as under:

“Whether Sh. Arvind Mayaram he been authorised to represent plaintiff no.1 and is entitled to continue the suit in the name of plaintiff no.1?”

12. After the evidence is concluded, Trial Court is requested to decide the said issue.

13. Learned counsel for the Petitioners states that she will file her affidavit by way of evidence on the aforesaid issue as framed by this Court within a period of four (4) weeks.

14. This order has been passed with the consent of the parties appearing before this Court.

15. The objection of defendant no. 4 that the Trial Court does not have jurisdiction to determine the subject matter of the suit has not been opined upon. This order is limited to directing adjudication of the competence of Sh. Arvind Mayaram to represent plaintiff no.1 in the pending suit.

16. List before the Trial Court on 20.12.2023 for the said purpose.



17. It is made clear that this Court by passing this order, has not in any manner examined the authority of Sh. Arvind Mayaram to represent plaintiff no.1, or not. Neither it has opined on defendant no. 4's rival contentions with respect to absence of locus of Sh. Arvind Mayaram to represent plaintiff no.1. The said issue will be decided by the Trial Court in accordance with law.

18. Accordingly, this petition is disposed of along with pending applications.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 6, 2023/msh/ms

Click here to check corrigendum, if any