

11IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2024:PHHC:016173

1. CR-1475-2021 (O&M)
Date of decision: 06.02.2024

LAXMAN CHAUDHARY AND OTHERS
Versus
K.S. PATHANIA AND OTHERS

..Petitioners
..Respondents

2. CR-1490-2021 (O&M)

LAXMAN CHAUDHARY AND OTHERS
Versus
K.S. PATHANIA AND OTHERS

..Petitioners
..Respondents

3. CR-1491-2021 (O&M)

LAXMAN CHAUDHARY AND OTHERS
Versus
K.S. PATHANIA AND OTHERS

..Petitioners
..Respondents

4. CR-1494-2021 (O&M)

LAXMAN CHAUDHARY AND OTHERS
Versus
K.S. PATHANIA AND OTHERS

..Petitioners
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Surya Parkash, Advocate
for the petitioners.

Mr. Raghav Dayal Gupta, Advocate
for respondent No.1 and 2.

ANIL KSHETARPAL, J(Oral)

1. With the consent of the learned counsel representing the parties
four connected revision petitions shall stand disposed of by this common
order.
2. Plaintiff No.2 to 9 assail the correctness of order passed by the
First Appellate Court on 20.07.2021, while substituting Sh. Kashmir Singh

Pathania as the authorized representative of plaintiff No.1 (Aparna Ashram) in place of Sh. Laxman Chaudhary.

3. In order to comprehend the issue involved in these case, the relevant facts, are extracted from the judgment passed in CWP-494-2021, titled as “Rados Tradex Pvt. Ltd. And others Vs. State of Haryana and others”, decided on 28.03.2023:-

“4. Late Sh. Dhirender Bharamchhari was instrumental in getting Aparna Ashram (the Society) registered with Registrar of Societies, Delhi (hereinafter referred to as the ‘ROS’). Between 1983-1984, the property in question was purchased by the society through various registered sale deeds. After his death, dispute arose between the two brothers namely Sh. Bir Chand Chaudhary and Sh. Jai Chand Chaudhary. One group was led by Sh. Murli Chaudhary son of Sh. Jai Chand Chaudhary, whereas, the second group was led by Sh. Laxman son of Sh. Bir Chand Chaudhary. In the year 1996, they entered into a settlement while agreeing to hold election. The group headed by Sh. Murli Chaudhary did not participate in the election. Sh. Murli Chaudhary is alleged to have formed a separate body and inducted Sh. Subhash Dutt and Sh. Kashmir Singh Pathania as members of the governing body. Murli group passed a resolution authorizing Sh. Subhash Dutt as President of the Society to enter into collaboration and development agreement with M/s Shree Damodar Corporation. A resolution to this effect was passed on 27.08.2000. M/s Shree Damodar Corporation was a partnership firm formed by Sh. R.R. Shakya with his wife Smt. Shushila Shakya and Sh. Kailash Nath Chaturvedi as its partners and collaboration and development agreement was signed on 08.09.2000, however, the ROS, on account of the serious dispute between both the groups, refused to recognize any of the two groups. Thereafter, M/s Shree Damodar Corporation entered into a Memorandum of Understanding with M/s IDM International (Mr. Kailash Nath Chaturvedi was partner in M/s Shree Damodar Corporation and M/s IDM International). In the year 2003, once again, election took place, however, Murli Group did not participate. In October, 2003, Murli Group and M/s Shree Damodar Corporation further entered into a collaboration development agreement with M/s IDM International. Thereafter, Murli Group and M/s Shree Damodar Corporation entered into a Memorandum of

Understanding with MGF through Sh. Subhash Dutt. The elected representatives (Laxman Group) filed Civil Suit No.125 of 2004 in the Civil Court at Gurugram with a prayer to grant declaration and permanent injunction on the strength of 1996 and 2003 elections while challenging the fictitious resolution passed by the Murli Group, their above-said Memorandum of Understanding/collaboration and development agreement with M/s Shree Damodar Corporation, M/s IDM International, MGF etc. In this suit, Sh. Murli Chaudhary, Sh. Kashmir Singh Pathania, Sh. Subhash Dutt, M/s Shree Damodar Corporation, M/s IDM International, MGF were impleaded as the defendants. In the year 2009, the Additional District Judge ordered maintenance of status quo regarding alienation and possession of land in question. Thereafter, Murli Group, on the basis of a resolution, entered into a collaboration and development agreement with M/s Splendor Landbase Ltd. On the other hand, Murli Group filed Civil Suit No.7634 of 2016 before the Court of Additional District Judge, Saket, Delhi, seeking declaration that the members of Murli Group including Sh. Kashmir Singh Pathania and Sh. Subhash Dutt were the original/genuine members of the governing body of the society and they can deal with the property of the society, whereas, Laxman Group has no concern. Some of the members of the Murli Group also filed a suit in the year 2009 i.e. Civil Suit No.744 of 2016 regarding another property of the society in Delhi. In early 2014, Murli Group removed Sh. Kashmir Singh Pathania and Sh. Subhash Dutt from primary membership. Thereafter, Sh. Kashmir Singh Pathania formed his own group. On 27.01.2015, in Civil Suit No.744 of 2016, the Court held that Sh. Kashmir Singh Pathania was removed from the primary membership of the society and convening of a parallel meeting shall be inconsequential. On 27.08.2016, the learned Additional District and Sessions Judge, Saket, Delhi, held that Murli Group did not participate in the election held in the year 2003, 2006, 2010 and 2014 and hence, they are not the members of the society and Laxman Group has the mandate to carry out the activities of the society resulting in dismissal of the suit filed by the Murli Group. In appeal, vide judgment dated 04.10.2016, the Delhi High Court upheld the judgment of the trial Court. A Special Leave Petition filed before the Supreme Court was also dismissed. On 16.12.2016, a civil suit filed by members of Laxman Group was decreed while declaring the various lease deeds executed by the Murli Group including Sh. Subhash Chand, Sh. Kashmir Singh Pathania, as illegal.”

4. Aparna Ashram through Sh. Laxman Chaudhary and plaintiff No.2 to 10 including Sh. Laxman Chaudhary as an individual filed suit for grant of decree of declaration with a consequential relief of permanent injunction to the effect that plaintiff no.1 is the absolute owner in possession of the land described in para 2 of the plaint while declaring the alleged lease deeds executed in favour of defendant No.8 and 9, are illegal, null and void. Further relief for grant of declaration that the alleged collaboration agreements are also ineffective, was sought. In this suit, Sh. Kashmir Singh Pathania was impleaded as defendant No.8. The allegations were made against the conduct of Sh. Kashmir Singh Pathania.

5. The suit filed by the plaintiffs was decreed on 16.12.2016, against which Sh. Murli Chaudhary filed first appeal. Aparna Ashram was impleaded as respondent No.1 through Sh. Laxman Chaudhary. During the pendency of the first appeal, an application was filed by Sh. Kashmir Singh Pathania, who was defendant No.8 for substitution of his name as authorized representative of the Society on the basis of order passed by the Registrar of Societies, Delhi on 04.12.2020. The aforesaid application has been allowed by the Court. The correctness of the aforesaid order is challenged in these revision petitions.

6. The learned counsel representing the petitioners contends that in the previous litigation, it has been held that Sh. Kashmir Singh Pathania is not even the member of the Society. He submits that the order passed by the Registrar of Societies cannot over ride the judgments passed by the competent Courts, which have become final as one of the case has been decided finally by the Supreme Court.

7. On the other hand, the learned counsel representing the respondents submits that the First Appellate Court has only passed interlocutory order, which would not effect the merits of the case.
8. This Court has considered the submissions of the learned counsel representing the parties.
9. In fact, while deciding the writ petition, this Court has taken note of the various judgments passed in various suits. In these circumstances, the First Appellate Court has erred in solely relying upon the order passed by the Registrar of Societies.
10. Keeping in view the aforesaid facts, the four identical impugned orders passed by the First Appellate Court in four different appeals are set aside and the First Appellate Court is directed to decide the application afresh keeping in view the judgments passed by the Courts in various litigations arising between the parties.
11. With these observations, all the revision petitions are disposed of.
12. All the pending miscellaneous applications, if any, are also disposed of.

February 06th, 2024
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(ANIL KSHETARPAL)
JUDGE

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