

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

105

CM-1573-CWP-2024 IN/AND
CWP-22389-2021 (O&M)
Date of order: 30.01.2024

Academy of Indian Classical Music and Fine Arts

.....Petitioner(s)

Vs.

State of Punjab & Others

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. H.S. Baidwan, Advocate
for the petitioner.

Mr. Prateek Rathee, Advocate
for respondents No.2, 3, 5 and 8.

Ms. Anu Pal, Sr. DAG Punjab.

Nidhi Gupta, J.

Prayer in the present Writ Petition is for the issuance of a writ in the nature of Certiorari to quash Notification No.SW3/HHS/2020/9852 dated 22.09.2020 (Annexure P-37) issued by respondent No.2 constituting a Governing Council of the Holiday Home Society i.e. respondent No.5, which is against the rule of law as respondent No.5 is registered with respondent No.1 under Societies Registration Act, 1860; for issuance of a writ in the nature of Mandamus directing respondent No.1 to protect public property of respondent No.5 from being taken over by respondents No.2 and 3, in connivance with respondent No.7

by misusing public office against the rule of law for a direction to respondent No.4 to immediately seal the illegal Pathological Laboratory being operated by respondent No.7 and cancelling authorization given to them vide Annexure P-35 dated 09.07.2019 as the same has been taken by misleading respondent No.4, illegally, unconstitutionally and by cheating the people in the name of Charity, as it has become a bio-medical hazard for the minor children who are being imparted education in the premises of respondent No.5; for a direction to respondent No.6 to register an FIR against the culprits for destroying the revenue records/maps/building plans of respondent No.5 and further trying to forge and tamper by creating a forged/record file; for a direction to respondents No.2, 3 and 5 not to interfere in the peaceful functioning of the petitioner, respondent No.8, Sewing Centre by stopping them as the same are functioning according to the aims and objectives of the Society/respondent No.5; and for a direction to respondents No.2 and 3 to recover the property and damages to the property of respondents No.1 and 5 from the members of respondent No.5 and trespasser i.e. respondent No.7 by executing the proceedings of the eviction notice dated 20.02.2015 (Annexure P-24), issued by respondent No.3.

2. The petitioner's grievance is that under the garb of running a clinic, a completely illegal Pathological Laboratory is being run by respondent No.7, in the name of Charity. It is contended that Bio-medical waste generated from the Laboratory, X-Ray, CT Scan, MRI and wastewater is being thrown into normal dustbins and sewerage line of the Municipal Corporation, Chandigarh.

3. In the short reply filed on behalf of respondents No.2, 3, 5 and 8, plea of maintainability has been raised, highlighting the fact that the petitioner has been indulging in mala fide litigation in order to safeguard its own interests.

4. Perusal of the record shows that the petitioner approached Holiday Home Society (Respondent No.5 herein), with a request to provide one room for running music classes. In 1995, petitioner was permitted to run classes for Classical Music and Fine Arts in one portion of loco shed consisting of one room and store, only for three hours daily for six days a week at licence fee/charges of Rs.1500/- per month. Later on, the petitioner tried to occupy adjoining room without any permission from the Society and on being objected to by the Society, petitioner filed Civil Miscellaneous No.3 under Order 39 Rule 2-A CPC, for permanent injunction restraining the Holiday Home Society from interfering in peaceful possession of the petitioner. The Society contested the case and the aforesaid application filed by the petitioner was dismissed with costs on 29.09.2016 by learned Civil Judge (Junior Division), Chandigarh.

5. The Holiday Home Society had also filed Civil Suit No.1098 of 2015 on 02.07.2015 against the petitioner for possession of one room and store in Loco Shed Accommodation adjoining tailoring classroom in the premises of Indira Holiday Home, Sector 24-B, Chandigarh; recovery of Rs.13,500/- ; and recovery on account of difference of arrears of licence charges w.e.f. 01.04.2013 till 30.06.2015 along with interest @ 18% per annum pendente lite and future, till actual realization and recovery on

account of damages/mesne profits for illegal and unauthorized use and occupation of the premises along with interest @ 18% per annum pendente lite and future, till actual realization. This Suit was decreed in favour of the Society and the same stood decreed with costs on 30.09.2016.

6. Aggrieved by the aforesaid judgment and decree dated 30.09.2016, the petitioner filed Civil Appeal No.547 of 06.12.2016 before learned District Judge, Chandigarh. The said appeal was decided in favour of Holiday Home Society vide judgment and order dated 01.08.2017, upholding the judgment and decree dated 30.09.2016 except for the modification in the rate of interest, which was reduced from 18% per annum to 9% per annum.

7. Thereafter, the petitioner filed RSA No.4567 of 2017 against the aforesaid order dated 01.08.2017, which was dismissed by this Court on 22.01.2021.

8. It has also come on record that the learned counsel for the petitioner in the instant case had earlier filed CWP-(PIL)-103-2020, which was dismissed as not maintainable on 17.08.2020; observing that there was a conflict of interest and that the PIL lacked bona fide. Respondents had contested the petitioner's locus to impugn notification dated 22.09.2020 (Annexure P-37) as the petitioner therein was in no way aggrieved by the said notification.

9. The petitioner does not controvert the above said findings.

10. From the above facts, it is clear and undisputed that there has been long history of litigation between the parties. On a direct Court query, questioning the locus of the petitioner, learned counsel for the petitioner has no satisfactory reply and is unable to make out any actionable grievance accruing to the petitioner. It appears that the present litigation is motivated and no actual cause of action has arisen to the petitioner.

11. In view of the above, we find no merit in the present petition. The same accordingly stands **dismissed**.

12. Pending application(s) if any also stand(s) disposed of.

(Ritu Bahri)
Acting Chief Justice

(Nidhi Gupta)
Judge

30.01.2024
Sunena

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