

CR-6653-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.125

CR-6653-2019

Date of Decision: 02.05.2024

TEJBIR SINGH AND OTHERS

....Petitioners

Versus

GURINDER SINGH AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. G.S. Sirphikhi, Advocate,
for the petitioners.

Mr. Vipin Mahajan, Advocate,
for the respondents.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 31.08.2019 (Annexure P-5), passed by learned Trial Court, whereby an application under Order 23 Rule 1 CPC and Section 151 CPC, filed at the instance of respondent No.1 (plaintiff No.2 before learned Trial Court), had been allowed.

Learned counsel for the parties heard.

Material facts, as culled out from the paperbook are that initially, Managing Committee, Guru Nanak Khalsa Senior Secondary School, through its President-Gurnam Singh and Manager-Gurinder Singh, had filed a suit for seeking declaration, with regard to duly constituted Committee of Guru Nanak Khalsa Senior Secondary School. During the pendency of the said suit, an application under Order 23 Rule 1 CPC, was filed, thereby seeking permission to withdraw the pending suit, with

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permission to file fresh one, on the same cause of action and subject matter.

Copy of the said application is Annexure P-3. Perusal of the same reveals that Gurnam Singh, who was the President of the Managing Committee of Guru Nanak Senior Secondary School, died on 28.06.2019 and in pursuance of his death, no President had been elected by the Members of the Managing Committee and on this account, the aforesaid application was filed, which was allowed vide the impugned order.

However, perusal of the application reveals that it was Gurnam Singh, who in the capacity of being President, was earlier impleaded as one of the plaintiffs and he had died, but however, the post of President was there and the suit could be continued in the capacity of some Incharge/elected President.

On query by the Court, it is submitted by learned counsel for the respondent that Gurinder Singh Bajwa, who was earlier plaintiff No.2, is now the elected President of Guru Nanak Khalsa Senior Secondary School and the suit can be pursued by him, being the elected President.

In these circumstances, when there is an Incharge/elected President. In fact, now having full fledged charge, the suit could not be withdrawn, in the manner, as asserted in the application and as allowed vide the impugned order.

In the given circumstances, the impugned order brooks interference and hence, the present revision petition is accepted and the impugned order is hereby set aside. As such, Civil Suit No.3213 of 2014, titled '*Managing Committee, Guru Nanak Khalsa Senior Secondary School and another V/s Jaspal Singh and others*' stands revived.

The parties are directed to make appearance before the

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Successor Court on 20.05.2024 and pursuant thereto, learned Trial Court shall conduct the proceedings, in accordance with law.

In the light of the aforesaid, the present revision petition stands disposed of.

02.05.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No