

(2013) 09 P&H CK 0368

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 1532 of 2009

Baldev Singh

APPELLANT

Vs

Nam Ratra International
Education and Religious Trust
and Others

RESPONDENT

Date of Decision: Sept. 19, 2013

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: B.R. Mahajan and Ms. Gaganpreet Kaur, for the Appellant; Harjeet Singh Minhas and Mr. P.K. Madan, for the Respondent

Final Decision: Allowed

Judgement

K. Kannan, J.

The relief of injunction which was issued against the petitioner in a pending suit under Order 39 Rules 1 and 2 related to management of a school. The plaintiffs had claimed that the school which was established on 01.04.1980 was run through a society duly registered. Admittedly it was established by a person called Ram Singh, who was the President and Managing Director and the petitioner was the Secretary of the society. The society, which was formed as an unregistered body came to be registered subsequently on 22.11.1995 only. It required further funds for improvement and it appears that the first plaintiff Nam Ratra International Society and Religious Trust pledged itself to infuse sufficient finances and improve the infrastructure. It was claimed by the petitioner that on 07.04.2002, a joint meeting of Trust of the education society that established the school and Akhand Kirtani Jatha International presided over by Ram Singh was held and Ram Singh expressed that due to his old age, he was not able to move freely and it was to be handed over to petitioner Baldev Singh. While the petitioner would contend that he was continuously in possession, the suit came to be instituted by the respondents on a completely different narration. The plaintiffs would contend that Ram Singh had constructed Gurdwara Shaheed Ganj at the Railway Colony, Amritsar and adjacent

to the Gurdwara, the school was started by him. He had appointed the plaintiffs No. 2 and 3 as teachers and later promoted them respectively as Principal and Vice Principal. The plaintiffs admitted that the school was run by the educational society founded by him called Shaheed Ganj Khalsa Education Society and duly registered. In the year 1997, Akhand Kirtani Jatha International and Damdami Taksal had come together to form a committee in the name of Nam Rattria Trust and Bhai Zorawar Singh was made the Convener-cum-Financial Undertaker of the Trust. The petitioner was given the duty as a Deputy Jathedar to give support to Bhai Zorawar and a new Trust was formed in May, 1997 to completely refurbish the Shaheed Ganj Khalsa Memorial School according to U.K. Standards of Public School Buildings. Sant Parkash Singh was appointed as a permanent Secretary and Baldev Singh was appointed as a Manager of the Trust. Bhai Zorawar Singh had brought Rs. 50 lacs collected from the sikh residents in U.K. and spent the entire amount on the construction of 8 class rooms with modern facilities. The Trust was registered and the school was being run by the Trust. It was admitted by the plaintiffs and brought out in the reply filed before this Court that since Zorawar Singh had gone away to UK in connection with family affairs, the petitioner who was the then Manager of the Trust and Deputy Jathedar of the Akhand Kirtani Jatha had been in control of the school.

2. The point of discord arose only when allegations of antisocial and unlawful activities were attributed to the petitioner. The allegations and counter allegations were levelled about the fact that Zorawar Singh had upgraded the status of plaintiffs No. 2 and 3 from Principal and Vice Principal to Director-cum-Administrator and Principal respectively. The control was said to have been handed over to plaintiffs no. 2 and 3 on 25.10.2004. From the narration of facts even as admitted by the plaintiffs, it becomes clear that the petitioner's management of the school on behalf of the Trust as well as on behalf of the Society was seen to persist till 2004. The founder Ram Singh died in March, 2007 and it is contended by the 1st plaintiff that the petitioner started interfering with the activities. Most crucially, there is nothing brought out in the plaint that the petitioner handed over the management to plaintiffs No. 2 and 3 at any time. If the school had been managed only by the plaintiffs, it should have been definitely possible for the plaintiffs to file the necessary documents of accounts relating to the management but here the plaintiffs have an explanation that all the books had been removed by the petitioner. The status quo as on suit appears to have been that the petitioner was actually in management but the plaintiffs had a complaint that it was an illegal usurpation by the petitioner-defendant. Whether the petitioner usurped or not and whether the Trust had lawfully removed him or the society continued to run the administration would be essentially matters that would be considered only at the time of trial. At least prima facie, the alleged handing over management does not appear to be correct for the plaintiffs to have an immediate relief and to prevent the petitioner from managing the school on an averment made in the plaint that the

petitioner was mismanaging the affairs and was indulging in anti-social and unlawful activities. Interim orders are passed for preservation of status quo except in rare cases where the mandatory relief is also given to enforce some new acts in order to secure a status quo ante. The Supreme Court has held in [Kishore Kumar Khaitan and Another Vs. Praveen Kumar Singh](#), that status quo order passed by a Court without indicating what the status quo was, was improper. This Court has also held in Devender Kumar Vs. Smt. Santra Devi and others 2010(3) CCC 529 that if the plaintiffs themselves are not shown to be in possession, grant of order of status quo is erroneous and the Court can pass a status quo order only when it comes to the conclusion that the plaintiff was in possession. I would add an additional ground that if the evidence does not support a prima facie case of plaintiffs management as in this case, it should be only held that in such an event, that relief would have become possible after a successful completion of trial if the petitioner has proved his case and not prior thereto.

3. If the plaintiffs have a grievance that the defendant in spite of having been removed, he was still meddling with affairs, an interim order could not be granted when actually the management had not passed on to the hands of plaintiffs. A mismanagement is a good ground for removal and would enable the plaintiffs to carry on with the affairs of the school but till a valid removal is established and the imputations made against the defendant is also established, the Courts below could not have granted the relief of injunction.

4. I am informed that trial of the suit has progressed and it is towards the final stage. The counsel for the respondents/plaintiffs himself admits that the petitioner continues in management and the plaintiffs have complained of disobedience of the interim order of injunction already granted. This Court has granted status quo which under the circumstances, I would believe is retention of management of property in the hands of the defendant-petitioner. The injunction order passed would have the effect of altering the system of management and the same shall not be done till the rights are concluded after a full-fledged trial. I set aside the impugned orders and allow the civil revision. The observations made in this case are meant only for the purpose of disposal of this petition and none of them shall be used against the interest of the plaintiffs.