

7 CS DJ 483-23

VIJAY KUMAR Vs. SHRI SAI BHAKTA SAMAJ AND ORS

19.10.2024

Present:- Sh. Narender Kumar and Sh. Hamid Hawari, Ld.
Counsels for plaintiff.
Sh. Gaurav Sindwani and Sh. Siddharth Agarwal,
Ld. Counsels for defendants.

1. Today the matter is taken up on an application under Order I Rule 10 CPC for deletion of defendants no. 2, 3 and 4 filed on behalf of the defendants.

2. It is submitted by the Ld. Counsel for defendants that the defendant no. 1 is a registered society and is governed by the Societies Registration Act, 1860 and as per Section 6 of the said Act, a case can be filed against the society in the name of President, Chairman or Principal Secretaries or trustees as shall be determined by the rules and regulations of the society. It is further submitted that as per the rules of the society, a secretary authorized by a managing committee can sue or be sued on behalf of the society. It is submitted that as the defendant no. 1 has made rules designating the secretary as the person who can be sued on behalf of defendant no. 1, defendants no. 2 to 4 are not necessary parties in the present case and defendant no. 1 can be sued only in the name of its secretary. It is further submitted that defendants no. 3 and 4 are no longer the president and secretary of defendant no. 1 respectively and as such they cannot be made parties in the present suit. Ld. Counsel for the defendants has relied upon the following judgments:-

(i) Ganga Sahai Vs. Bharat Bhan & Ors of Hon'ble Court of Allahabad, MANU/UP/0188/1950.

(ii) Satyavart Sidhantalankar Vs. The Arya Samaj Bombay in the Hon'ble High Court of Bombay MANU/MH/0117/1945.

2. Per contra, Ld. Counsel for plaintiff has submitted that the plaintiff is the dominus litus and it is the prerogative of the plaintiff to array the defendants in a particular case and as such the plaintiff has arrayed the present four defendants. Further, it has been submitted that as per the rules of the society, all the major decisions regarding appointment are to be taken by the secretary on the instructions of the Managing Committee and the President and as such all the four defendants are necessary and proper parties in the present case.

3. Heard. Perused.

4. As per Section 6 of the Societies Registration Act, the society registered under the Act can be sued in the name of such official as has been nominated by the society for the purpose of litigation. In the rules and regulations of the defendant no. 1, the secretary who has been authorized by the managing committee can be sued on behalf of defendant no. 1. Further, it is clear from the rules that there can be multiple secretaries of defendant no. 1 and the president is authorized to allocate work to the different secretaries from time to time as per requirement. As per the judgment of **Satyavart Sidhantalankar (supra)** Hon'ble High Court of Bombay has opined

“8.....provision is made for suits by and against societies in that the society may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion. If, however, on application to the governing body no officer or person is nominated to be the defendant, it is competent for any person having a claim or demand against the society to sue the president or chairman or principal secretaries or the trustees thereof. No suit or proceeding, however, is to abate or discontinue by reason for the person by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceedings shall be continued in the name of or against the successor of such person. A judgment recovered against the person or officer named on behalf of the society is not to be put in force against the property movable or immovable or against the body of such person or officer, but against the property of the society. The society is given the power to recover any penalty accruing under the bye-laws by filing a necessary suit against the person liable to pay the same. The members are liable to be sued as strangers and the property of the society is liable to process for payment of the costs of unsuccessful litigation against such member. Members guilty of offences are punishable as strangers. Provision is made for the adjustment of their affairs, but no member of the society is entitled to receive an profit upon the dissolution of a society, whatever surplus that remains after satisfaction of all its debts and liabilities is to go to some other society as may be determined by the votes of three-fifths of the members present personally or by proxy at the time of the dissolution, or, in default thereof, by the Court having jurisdiction in that behalf.”

5. Thus, it is clear from the combined reading of Section 6 as well as the judgment cited by the defendants that a society can be sued in its name and can be sued through its

secretary or other official as nominated by the society. In the present case, as per the rules and regulations of defendant no. 1, the defendant no. 1 has nominated the secretary authorized by the managing committee to be sued on behalf of the defendant no. 1. However, as there is a provision of more than one secretary to be appointed for defendant no. 1, defendant no. 1 is directed to disclose the name of the secretary authorized by the managing committee who may be sued on behalf of the defendant no. 1 within one week.

6. In the plaint, the plaintiff has not disclosed the personal involvement of the defendant no. 2 and 3 regarding the dispute at hand and further in reply to the present application, it has been admitted by the plaintiff that the plaintiff was employed by defendant no. 1 and the members of the society who are managing its operations are not personally liable. Since, neither defendant no. 2 or defendant no. 3 are the officials nominated by the defendant no. 1 for this purpose nor any personal allegations are levied against them, they are not necessary or proper parties in the present case.

7. Thus, **the present application under Order I Rule 10 CPC is partly allowed** and defendants no. 2 and 3 are directed to be deleted from the array of parties. Defendant no. 1 is further directed to disclose the name of the secretary authorized by the managing committee who may be sued on behalf of the defendant no. 1 within one week. Amended memo of parties be filed within one week thereafter.

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8. List on **23.11.2024.**

(Rahul Bhatia)
DJ-1 (South-East), Saket Court
New Delhi/19.10.2024(sk)