

**SUBHASH CHAND KAUSHIK OTHERS Vs. THE REGISTRAR OF SOCIETY OTHERS**

**THROUGH WEBEX VIDEO CONFERENCING.**

**20.11.2020**

**File has been taken up today as it could not be earlier taken up due to lockdown on account of Covid-19.**

Present: Sh. Sandeep Kumar, Ld. counsel for the plaintiff.

Sh. Pramod Gupta, Ld. Counsel for the defendant no. 4 and 5.

Sh. Anshu Mahajan, Ld. Counsel for the defendant no. 6 to 9, 11 & 16 to 21.

Proceeding qua defendant no. 3, 1, 12 and 17 have already been deleted as they have expired and no cause of action survives qua them.

Defendant no. 15 is stated to be ex-parte.

None for other defendants.

None has been appearing for other defendants since long.

Perusal of the record shows that on 25.02.2020, part arguments were heard on two application of the plaintiff one under Order 1 rule 10 CPC and the other under Order 6 Rule 17 CPC, both supported with affidavits dated 02.04.2012. However, the orders could not be pronounced due to lockdown. Arguments have been heard afresh today. Put up for orders during course of the day.

**Shivali Sharma**

**Additional District Judge-03(West)**

**Tis Hazari Court/20.11.2020**

**PTO**

**At 03.00 PM**

**Present: None.**

1. Vide this order, I shall dispose off two applications filed by the plaintiff one is under Order I Rule 10 CPC and the other under Order 6 Rule 17 CPC.
2. Arguments have already been heard. Records carefully perused.
3. Vide application under Order I Rule 10 CPC, the plaintiff was seeking impleadment of two parties in the present suit. Firstly, Gandhi Samarak Nidhi (Central), Rajghat, New Delhi-110 002 was sought to be impleaded as defendant in the present suit. Secondly, Gandhi Gram Sewa Kendra, Village Hastal, Delhi was sought to be impleaded as a plaintiff in the present suit. The applicaiotn has been filed by plaintiff no. 1 Subhash Chandra Kaushik and is supported by his affidavit only.
4. As regards impleadment of Gandhi Samarak Nidhi (Central), Rajghat Colony, Rajghat as a defendant, a statement was given on behalf of the plaintiff on 25.02.2020 by his counsel Sh. Abhishek Gupta that since the plaintiff had already given up the relief claimed by them qua the proposed defendant in his application under Order 6 Rule 17 CPC, he does not want to press his application qua impleadment of proposed defendant Gandhi Samarak Nidhi (Central), Rajghat Colony, Rajghat. In view of the statement, the relief qua impleadment of proposed defendant Gandhi Samarak Nidhi (Central), Rajghat Colony, Rajghat has already been dropped.
5. As regards the impleadment of Gandhi Gram Sewa Kendra, Village Hastal, Delhi as plaintiff no. 4, arguments have been heard. Record perused. It is settled law that no person can be made a plaintiff in any suit without his consent/against his wishes. In the present case, the proposed plaintiff has not moved the application under consideration and rather application has been filed by the plaintiff no. 1 seeking impleadment of proposed plaintiff as a plaintiff in the present suit. Interestingly, as per the admitted case of the plaintiff, the proposed plaintiff i. e. Gandhi Gram Sewa Kendra, Village Hastal, Delhi was a

PTO

society registered on 12.06.1962 under Societies Registration Act, 1860. The said society was dissolved vide order dated 24.03.2009 passed by Registrar of Societies/defendant no. 1. In fact, in the present case, the plaintiff has challenged the said order of dissolution of proposed plaintiff society dated 24.03.2009. There is specific prayer to pass decree for cancellation of order dated 24.03.2009 passed by defendant no. 1 i. e. Registrar of Societies whereby the proposed plaintiff Gandhi Gram Sewa Kendra, Village Hastal, Delhi was dissolved and for restoring the proposed plaintiff society to its original position. Accordingly, the situation as it exists today is that the proposed plaintiff is a non-existent society and thus a non entity. Accordingly, it can not be impleaded as any party in the present suit. Even if impleaded as a plaintiff, there will be no one to represent the proposed plaintiff as it is a non existent entity as on date. Until and unless decree as sought in prayer no. 1 of the suit I. e. cancellation of order dated 24.03.2009 is passed, the proposed plaintiff shall continue to be a non-entity and thus, cannot be made a party in the present suit. Accordingly, I find no merit in the application of the plaintiff under order I Rule 10 CPC seeking impleadment of Gandhi Gram Sewa Kendra, Village Hastal, Delhi as plaintiff no. 4. The application is accordingly, dismissed for the said relief. As noted above, the other relief for impleadment of proposed defendant Gandhi Samarak Nidhi (Central), Rajghat, New Delhi-110 002 has already been withdrawn by the plaintiff. The application of plaintiff under Order I Rule 10 CPC is accordingly disposed off.

6. As regards application under Order VI Rule 17 CPC, the same was filed by plaintiff no. 1 for bringing on record certain facts which came to his knowledge after the filing of the suit through RTI. In the application under consideration, it is stated that for just and proper decision of the present suit, it is essential to bring those facts on record by amending the plaint in order to avoid multiplicity of ligation. Para 4a to Para 4g are sought to be added in the original plaint. The plaintiff had also sought addition of a prayer in the original suit seeking a decree of declaration declaring defendant no. 4 as a dissolved society and as per clause no. 36 of Rules and regulation of Delhi Gandhi Samarak Nidhi Rajghat/Patparganj all the property belonging to defendant no. 4 to be transferred to Gandhi Samarak Nidhi, Rajghat, New Delhi. However, amendment to the extent of including this prayer

was given up by the plaintiff no. 1 vide his statement dated 18.09.2017 and the application to that extent was dismissed as withdrawn. During the course of arguments, it is stated on behalf of the plaintiff that he wants to include the other amendment so that all the facts which came to the knowledge of the plaintiff subsequent to the filing of the present suit are brought on record.

7. Per contra, it is submitted on behalf of the arguing defendants that since the plaintiff has already dropped the prayer clause, the other amendments sought become irrelevant to the present case and are unnecessary. The amendment sought in para no. 4a to para no. 4e in the amendment application were clearly to support the relief being prayed by way of amendment (which is already dropped by the plaintiff). The other amendment sought by way of addition of paragraph no. 4f and 4g have no bearing on the facts of the present case and are thus, irrelevant and unnecessary. It is also stated that the plaintiffs are pleading knowledge of new facts and are seeking to incorporate an altogether new case which can be very conveniently done by filing a separate suit as the facts are totally irrelevant to the cause of action in the present suit. It is also submitted that application suffers from delays and laches and hence, is liable to be rejected.

8. I have heard the submissions made and carefully perused the record. The present case has been filed by the plaintiff alleging that the defendants, in connivance with each other had got a wrong order dated 24.03.2009 passed by defendant no. 1/Registrar of Society dissolving the society namely Gandhi Samarak Gram Sewa Kendra. The relief sought in the present case pertains to cancellation of order dated 24.03.2009, declaration that the new members enrolled by defendant no. 2 and 3 in Gandhi Samarak Gram Sewa Kendra were illegal, rendition of accounts in respect of properties of Gandhi Samarak Gram Sewa Kendra, injunction against disposal of properties/assets of Gandhi Samarak Gram Sewa Kendra and injunction against transferring or creating third party interest in respect of properties of Gandhi Samarak Gram Sewa Kendra.

9. In the amendment sought in paragraph no. 4a to 4e, certain allegations have been made against defendant no. 4 and defendant no. 6 regarding their illegal activities pertaining to which a relief 2a was sought to be included in the prayer clause regarding declaration of defendant no. 4 as a dissolved society. However, the said relief has already been withdrawn by the plaintiff. Plaintiff has failed to explain as to how the amendment sought in paragraph no. 4a to 4e regarding the frauds committed by defendant no. 4 in connivance with defendant no. 6 remain relevant to the facts of the present suit when the relief sought in this regard is already withdrawn. Moreover, the plaintiff has miserably failed to prove as to why these facts were not pleaded in the original plaint. It is alleged that these facts came to the knowledge of plaintiff through RTI. However, neither any RTI has been annexed with the application nor the date when such informations were received by the plaintiff is pleaded. Even the facts contained in the paragraph 4f and 4g are allegations against fraudulently activities of defendant no. 4 which have been alleged to have come to the knowledge of plaintiff through RTI. These RTIs are not placed on record and also there is no clarity as to how these facts are necessary for the decision of the present case. Accordingly, I find no merit in the application under consideration. The application of the plaintiff under Order VI Rule 17 is thus, dismissed being without any merit.

10. Re-notify for appearance of the parties and submissions regarding other pending applications if any, or for further proceedings on 05.12.2020 through VC.

11. Ahlmad is directed to report regarding the status of pleading in the present case.

**Shivali Sharma**

**Additional District Judge-03(West)**

**Tis Hazari Court/20.11.2020**