

R.C.S.No. 458/2014
Mohd.Sajid Vs. Sant Tajuddinbaba

ORDER BELOW EXH.72
(Passed on 28.12.2015)

1. This application is filed by one Shri Ramchandra Parate alleging to be the Secretary of the defendant No.1 and owner of the suit property. He has sought to intervene in the matter on the ground that he is absolute owner of the suit property. He being the Secretary of the defendant No.1 Society, he is necessary party to the suit. Hence, it is necessary to array him as a party to the suit as a defendant. Hence, this application.

2. The application is strongly opposed by the rest of the parties. In fact the defendant No.1 has not only opposed the application but has also filed one copy of order passed below Exh.5 in RCS No.1237/06 in which the present intervenor has been restrained to deal with the suit properties posing himself as a Secretary of the society. The defendant No.1 has eventually requested to reject the application.

3. I have heard the learned counsel for the parties respectively and perused the record.

4. This suit is essentially for declaration that the defendants are indulged in fraudulent activities. The defendant No.1 is seen to be one Co-operative Society and is being represented through its President. The plaintiff alleges

that the defendants in collusion with each other have prepared false and fabricated documents in respect of the suit property and created third party interest. It is interesting to note that the present intervenor has now claimed to be the sole and absolute owner of the suit property. However, the record speaks otherwise. It appears that at the relevant time the present intervenor was the Secretary of the defendant No. 1 Society and, therefore, the transactions were entered into by him as a Secretary of the defendant No.1 Society, not in a personal capacity of him. So, defendant No.1 being juristic personality was representing through the natural person, the Secretary, in all the transactions. It did not happen that the present intervenor was personally entering into any transactions or sale/purchase. What all he did was in his official capacity for and on behalf of defendant No.1 society. Not a single transaction has taken place in his personal capacity. Despite the same in this application the present intervenor is trying to project himself as the absolute owner and is claiming his independent right than that of the defendant No.1 Society. However, the record demonstrates that nothing has been brought on record showing that he personally entered into the transactions independently than that of the defendant No.1 Society. Only because the intervenor was the Secretary of defendant No.1 Society, it does not mean that he has become the owner of the property which is held or was held by the defendant No.1 Society. It appears from the record that the defendant No.1 Society has filed one RCS No.1237/06 against the present intervenor

and the defendant No.1 has obtained necessary temporary injunction against the present intervenor. Apparently the present intervenor has no independent status, right or any title on the suit property so as to allow him as a party to the suit. This application is not bonafine one and despite the fact that the present intervenor entered into the transactions being the Secretary of the defendant No.1 Society, still he claims to be the independent owner than that of defendant No.1 Society. For the above said reasons the application is liable to be rejected with costs. Hence, the order-

ORDER

The application is rejected with cost of Rs.700/-
to be paid to DLSA, Nagpur.

Nagpur
Dt-28/12/2015

(A.A.Dhawas)
4th Jt Civil Judge
(Jr.Dn) Nagpur.

