

(2011) 04 AHC CK 0476

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 20580 of 1990

Anang Pal Tomar Smarak Shiksha Samiti and Others

APPELLANT

Vs

Commissioner, Agra Division and Others

RESPONDENT

Date of Decision : 18-04-2011

Acts Referred:

Citation : (2011) 6 ADJ 502 : (2011) 8 RCR(Civil) 1866

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Advocate : Raj Kumar Jain, Rajesh Pathik and Rahul Jain, for the Appellant;
Manish Goyal and R.P. Goyal, for the Respondent

Final Decision : Allowed

Judgement

S.U. Khan, J.—Heard learned counsel for the parties. Through this writ petition order dated 30.1.1985 passed by Assistant Registrar Societies Firms and Chits Bareilly and order of Commissioner Agra Division Agra dated 9.8.1988 have been challenged true copies of which are is Annexures 7 and 9 to the writ petition respectively. Through Annexure 7 Registration of Sri Anang Pal Tomar Smark Shiksha Samiti Sonkh District Mathura, petitioner No. 1 (registration No. B-1253 file No. 404 of 1982-83) dated 12.7.1982 was cancelled. (Petitioner No. 2 Roshan Singh claims to be Secretary of the Society). The petitioners filed appeal No. 1 of 1984-85 against order dated 30.1.1985 which was dismissed by Commissioner Agra, Division Agra on 9.8.1988. This writ petition was filed on 20.8.1990. Through order dated 21.8.1990 passed in this writ petition delay in filing writ petition was condoned, writ petition was admitted and notices were issued.

2. The proceedings for cancellation of registration were initiated on the complaint of some persons including Rammi Singh, respondent No. 3, the only contesting respondent in this writ petition. Previously the name of the society which runs an Educational Institution was Mahatma Gandhi Smarak Shiksha Samiti. After amendment of the Societies Registration Act, in 1975 word "Mahatma Gandhi" could not be used in the name of a Registered Society. According to the

petitioners the meeting of the previous society was held on 30.7.1979 and resolution was passed to change the first part of the name of society from Mahatma Gandhi to Anang Pal Tomar and get the registration of the society renewed. The society was formed and registered for the first time on 24.7.1948. Brijendra Singh, Ram Swarup, Rammi Singh, Babu Singh, Digamber Singh and Dharaji Singh who were the members of the previous Society and who were shown to have signed the resolution dated 30.7.1978 filed affidavit before the Assistant Registrar to the effect that their signatures were forged.

3. The case of the petitioner No. 1 society headed by petitioner No. 2 was that the general body of the society passed resolution on 30.7.1979 for getting the renewal of registration of the Society with changed name in accordance with the changed law (which required periodical renewal). Fresh registration was granted on 12.7.1982. Affidavits were given by Ram Swarup and Rammi Singh to the effect that in the resolution dated 30.7.1979 their signatures were forged. Petitioners contended before the authorities below that even if two signatures were found to be forged still other signatures were genuine hence change of name and fresh registration could not be cancelled. The resolution for change of name was shown to have been passed on 30.7.1979. Its copy was sent to the registrar by Roshan Singh, petitioner No. 2 which was also signed by Rammi and Sri Ram Swarup and Sri Kedar Nath.

4. After the alleged resolution dated 30.7.1979, registrar issued the certificate of renewal in the changed name on 5.9.1979 effective for 2 years from 10.10.1977 which expired on 10.10.1979.

5. The renamed registration of the society expired and no fresh renewal was got done thereafter, hence fresh society by the same name was got registered on 12.7.1982.

6. In the order of registrar Annexure 7 it is mentioned that he had received a complaint signed by about 62 persons on 25.9.1984 stating therein that the elections of the society were held in 1976 in which Roshan Singh was elected as Manager that on 30.7.1979 no meeting was held under the Chairmanship of President Sanker Lal who was elected as President in the election of 1976. It was also alleged that Roshan Singh had misappropriated the property of the school and play ground had been let out for 60 years. It was also stated that some suit had been filed before Munsif Magistrate Mathura.

7. Even if the case set up by the group led by respondent No. 3, Ramesh Singh is accepted that no meeting was held and no resolution was passed on 30.7.1979 still the fact remains that the group headed by respondent No. 3 or any other member or office bearer of the society did not take any step either for change of the name of the society or for renewal of the registration of the society. Even if it is assumed that the proceedings of 30.7.1979 were forged and renewal with the changed name obtained on 5.9.1979 was illegal still it will not make much difference as the said renewal was not got further renewed within the time i.e.

before 10.10.1979 with the result that the said renewal expired and society became de registered having no existence under the societies registration Act. There was no necessity for the authorities below to decide validity/invalidity of those proceedings as they had exhausted due to non renewal after 10.10.1979. It was a fresh society which was got registered on 12.7.1982. Even if all the proceedings prior to that are held to be illegal still they will not affect the registration dated 12.7.1982. As no other member of the society including respondent No. 3 or those persons on whose complaint proceedings were initiated before the Assistant registrar for cancellation of the certificate dated 12.7.1982 took any step for correction of name or renewal of registration of the society hence the effect of cancellation of registration dated 12.7.1982 would be that there would be no society.

8. Accordingly, without deciding genuineness of alleged proceedings of the previous society dated 20.6.1979 and 30.7.1979 and whether renewal of the registration in the changed name through order dated 5.9.1979 was valid or not, impugned orders are set aside on the ground that it was a fresh society which was registered on 12.7.1982 and nothing wrong has been found in the said registration by the authorities below. The earlier illegalities and irregularities were wholly irrelevant for deciding the correctness of the fresh registration dated 12.7.1982. If the rival group had also applied for registration of the fresh society or renewal of the previous society then the matter would have been different.

9. Accordingly, writ petition is allowed both the impugned orders are set aside. However, this judgment does not absolve petitioner No. 2 of any misappropriation of the property of the society or the school which he might have done. If any proceedings in this regard are sub judice anywhere then said proceedings should be decided on merit without being influenced by this judgment allowing the writ petition.