
(2011) 01 P&H CK 0137

In the Punjab And Haryana At Chandigarh

Case No : CM No. 17301 of 2009 in CWP No. 11354 of 2009

K.S. Hothi

APPELLANT

Vs

The Administrator UT and Others

RESPONDENT

Date of Decision : 13-01-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Constitution of India, 1950 — Article 226

Citation : (2011) 01 P&H CK 0137

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mehinder Singh Sullar, J.—The epitome of the facts, which needs a necessary mention for a limited purpose of deciding the instant application under Order 1 Rule 10 CPC read with Article 226 of the Constitution of India and emanating from the record, is that Petitioner Kartar Singh Hothi has filed the instant writ petition for setting aside the impugned order dated 11.6.2009 (Annexure P7), by virtue of which, the Joint Registrar, Cooperative Societies (Respondent No. 5) removed the members of the Managing Committee and appointed its Administrator. Petitioner has only impleaded Krishan Kumar, Administrator of the Society as Respondent No. 8..

2. Now the applicants filed the present application for impleading them as Respondents, inter-alia pleading that after appointment of Administrator, vide impugned order (Annexure P7), the elections of the Managing Committee were held on 8.8.2009, new Executive Committee has taken over and it (Managing Committee) is conducting the business of the Society. According to the applicants that as decision of the main petition may adversely affect the rights of the remaining Respondents as well, therefore, their presence is essential. On the basis of aforesaid allegations, the applicants prayed that they may also be impleaded as Respondents in the main writ petition.

3. Neither the Petitioner nor the original Respondents filed any reply to contest the prayer of the applicants. However, the Petitioner has opposed the prayer of the applicants and urged that since they illegally became members on the basis of General Power of Attorneys, so, their presence is not at all required.

4. After hearing the learned Counsel for the applicants, Petitioner in person and learned Counsel for the original Respondents, after going through the record with their valuable assistance and after considering the entire matter deeply, to my mind, the instant application deserves to be accepted in this context.

5. Ex facie, the argument of Petitioner that as the applicants are not essential parties, therefore, they cannot be impleaded as Respondents, is neither tenable nor the observations of Hon''ble Apex Court in case T. Ramegowda Vs. R. Krishnamurthy and others, are at all applicable, wherein it was observed that where the members were enrolled illegally and without authority, there is no need to hear them. Possibly, no one can dispute with regard to the aforesaid observations, but the same would not come to the rescue of the Petitioner at this stage.

6. What is not disputed here is that Petitioner has challenged the validity of the impugned order (Annexure P7), vide which, the members of the Managing Committee were removed and Administrator was appointed. Whether the membership of the applicants is valid or otherwise, will be a moot point to be decided during the course of hearing of the main writ petition. Till then, it cannot possibly be saith that their enrollment is illegal. It is not a matter of dispute that after the expiry of term of the Administrator, new elections of Managing Committee of the Society were held on 8.8.2009 and members of the new Managing Committee have taken over the functioning of the Society. Once the members of the newly elected Managing Committee have taken over and the decision of the writ petition may also adversely affect the rights of the applicants (transferees), then to me, they are necessary parties and their presence is essential, in order to decide the real controversy between the parties.

7. In the light of the aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of decision of the main writ petition, the instant application is accepted. The applicants are ordered to be impleaded as added Respondents in the main petition.