
(2014) 01 RAJ CK 0218

In the Rajasthan High Court

Case No : Civil Writ Petition No. 8920 of 2013

Pragatisheel Jatiya (Raigar) Samaj Seva Sansthan

APPELLANT

Vs

Annantanand and Others

RESPONDENT

Date of Decision : 09-01-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 1 Rule 10(2)

Constitution of India, 1950 — Article 227

Succession Act, 1925 — Section 278

Citation : AIR 2014 Raj 50

Hon'ble Judges : Atul Kumar Jain, J

Bench : Single Bench

Advocate : Sajjan Singh, Advocate for the Appellant; Natha Ram Choudhary and Yaswhant Mehta, Advocate for the Respondent

Final Decision : Allowed

Judgement

Atul Kumar Jain, J.—As per O. I, R. 10(2), CPC, civil courts are authorised to add parties to the suit and such courts may at any stage of the proceedings either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely adjudicate upon and settle all the questions involved in the suit, be added. In the case in hand, Pragatisheel Jatiya (Raigar) Samaj Seva Sansthan, Pipar City (for short "PJRSS Sansthan" hereinafter), which is a registered society under the provisions of Co-operative Societies Act, had filed an application through its President under O. I, R. 10, CPC in the trial court but that application was opposed by respondent No. 1 Annantanand, who had filed an application u/s 278 of the Indian Succession Act, 1925 for obtaining a Letter of Administration of the estate lying in the name of Swami Ramanand S/o. Shri Kwsa Ram.

2. The petitioner PJRSS Sansthan had filed a copy of alleged Patta dated

12.4.1949 issued by Thikana Shri Nimaz Raj Marwar, copy of application filed before the S.D.O. on 23.12.2009, copy of application dated 2.7.2011 along with documents, like Registration Certificate, Constitution of the Society, bye-law and photographs etc. and on the basis of these documents, the petitioner PJRSS Sansthan claims that Letter of Administration in favour of respondent No. 1 cannot be issued without giving an opportunity of hearing to the petitioner. I have gone through the papers.

3. It has been argued on behalf of respondent No. 1 that when he had filed an application u/s 278 of the Indian Succession Act, 1925, the petitioner PJRSS Sansthan had not been in existence and the said society was registered on a later date and so as per respondent No. 1, the petitioner has no locus standi in the matter and it has been prayed on behalf of respondent No. 1 that the petition filed by petitioner PJRSS Sansthan should be dismissed.

4. This Court is not convinced with the arguments advanced by respondent No. 1 in this regard. A registered society can better protect the rights of its members and had it not been registered, so many members would have to come to contest the matter causing the disposal of the matter to be complicated. A registered society which has come in existence after institution of proceedings u/s 278 of the Indian Succession Act, 1925, can lawfully become a party, if it appears to be a necessary party and if it appears that his joining to the suit will help the court to effectually and completely adjudicate upon and settle all the questions involved in the suit. It is also true that when notices were published in the daily newspaper, no one on behalf of petitioner PJRSS Sansthan had appeared in the trial court to contest the matter but now when the petitioner PJRSS Sansthan has given appearance in the trial court and wants to become a party in the matter then it may be allowed to join the proceedings in the interests of justice.

5. Without commenting on the merits of the claim of the petitioner Pragatisheel Jatiya (Raigar) Samaj Seva Sansthan, this petition under Article 227 of the Constitution of India deserves acceptance which is hereby accepted and the impugned order dated 9.5.2013 passed by District Judge, Jodhpur District, Jodhpur is hereby quashed. Now the petitioner will be entitled to join and contest the proceedings in the trial court as non-applicant No. 4. The petition stands disposed accordingly. The stay petition also stands disposed of accordingly. A copy of this order be sent to the trial court immediately.