

(2019) 03 RAJ CK 0085
In the Rajasthan High Court
Case No : Civil Writ No. 13660 Of 2018

Shri Khayali Lal Tater

APPELLANT

Vs

Pawan Devi Deven Bafna @ Pawan Jain And Ors

RESPONDENT

Date of Decision : 07-03-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Section 151, Order 1 Rule 10

Citation : (2019) 03 RAJ CK 0085

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : AA Bhansali, Narendra Thanvi, Rajendra Singh, Manoj Bhandari

Judgement

Sh. Nirmal Sri Simal moved an application under Order I Rule 10 read with Section 151 Code of Civil Procedure seeking his impleadment as party respondent in the present writ petition.

For the reasons stated in the application and after hearing learned counsel for the parties, the application is allowed and Sh. Nirmal Sri Simal is impleaded as respondent no.7 in the present writ petition. The amended cause title already filed is taken on record.

Heard learned counsel for the parties.

The present writ petition is directed against the order dated 21.8.2018, passed by the learned Civil Judge and Judicial Magistrate, Marwar Junction, District Pali (hereinafter referred to as the trial Court), vide which an application dated 18.6.2018 filed by the petitioner-defendant no.5 has been disposed of.

The petitioner had moved the present application under Order I Rule 10 of the Code of Civil Procedure and prayed that the defendant No.1-Acharaya Shri Bhikshu Samadhi Sthal Sansthan, Siriyari, Tehsil Marwar Junction, District Pali (hereinafter referred to as "Sansthan" or "Society") be ordered to be represented through Nirmal Sri Simal, the present incumbent on the post of Secretary of the

Sansthan, in place of earlier Secretary, viz., Kiranraj Gadiya.

The trial Court while deciding the petitioner's above referred application has though practically allowed the same, but however, impleaded Nirmal Sri Srimal as separate defendant in place of ordering the defendant no.1 Sansthan to be represented through said Nirmal Sri Srimal, the present Secretary.

Mr. Bhansali, learned counsel for the petitioner contended that the trial Court has mis-directed itself and has passed the impugned order; though Nirmal Sri Srimal has been ordered to be impleaded as defendant, but however the defendant Sansthan has been allowed to be represented through the earlier Secretary-Kiranraj Gadiya.

Mr. Bhandari, learned counsel appearing for the respondent no.7 submitted that the trial Court has impleaded him as a defendant, but as far as the defendant no.1- the Sansthan is concerned, the same has to be represented through him, the present incumbent. He contended that it is not in dispute that as of today, the respondent no.7 is the Secretary of the Sansthan-Society and as such, as per the constitution of the Society, it is the Secretary, who has to be arrayed.

Mr. Thanvi learned counsel for the defendant no.2 and Mr. Rajendra Singh appearing for the plaintiff has fairly conceded that the respondent Sansthan ought to have been ordered to be represented through the present Secretary viz., Nirmal Sri Srimal (respondent no.7 herein).

The defendant no.1 Society namely "Acharaya Shri Bhikshu Samadhi Sthal Sansthan, Siriyari, Tehsil Marwar Junction, District Pali" shall be represented through present Secretary, Nirmal Sri Srimal in wake of common consensus between the parties to the effect that the defendant no.1 be represented through the present Secretary namely, Nirmal Sri Srimal. The writ petition is allowed and the order passed by the trial Court dated 21.8.2018 is modified in the manner that Nirmal Sri Srimal shall be shown as Secretary of the defendant no.1, while also remaining as a defendant (defendant no.7) in the suit. As far as Kiranraj Gadiya is concerned, he shall remain as an independent defendant in the suit proceedings, as defendant no.8. The plaintiff is directed to file an amended cause title in the trial court in tune with the present order within a period of 15 days from today, in the following manner:

"वादीया

श्रीमती पवन देवी देवेन बाफना उर्फ पवन जैन पत्नी हरकचन्द आयु 54, जाति जैन, निवासी-कराडी, तहसील मारवाड जंक्शन जिला पाली, राजस्थान हाल निवासी 31/2 वी एस लेन चीक पेठ क्रॉस गणेश मंदिर के सामने बैंगलोर (दक्षिण) कर्नाटक-560053 ।

बनाम

प्रतिवादीगण

1. आचार्य श्री भिक्षु समाधि स्थल संस्थान, सिरियारी तहसील मारवाड जंक्शन जिला पाली राजस्थान जरिये मंत्री श्री

निर्मल श्री श्रीमाल पुत्र श्री मीठा लाल जी, जाति जैन, निवासी-203- डी एन एस टावर, भारत गैस के उपर, तम्भी नाका, कोर्ट से पास, थाना वेस्ट, महाराष्ट्र-400601

2. सुरेन्द्र कुमार सुराणा पिता सम्पतराज, आयु 59, जाति जैन, निवासी-सुराणा कन्सट्रक्शन् 768 सिंघापुर ओरकेट तीसरी रोड खार (वेस्ट) मुम्बई-400052 ।

3. लूणकरण छाजेड पिता मूलचन्द जाति छाजेड (जैन), निवासी-11 श्रीराम मार्केट कोटगेट बीकानेर-334001 (राज.)

4. हंसराज बैताला पिता रूपचन्द जाति जैन, निवासी-सुजागंज जिला भांगलपुर बिहार-812002 सह-चुनाव अधिकारी।

5. ख्यालीलाल तातेड पिता मोहनलाल जाति तातेड (जैन), निवासी-प्रशान्त जैवल्स कपोलवाडी एम जी रोड घाटकोपर पश्चिम मुम्बई महाराष्ट्र 400086 ।

6. उप-रजिस्ट्रार राजस्थान सहकारी सोसायटी, पाली ।

7. श्री निर्मल श्री श्रीमाल पुत्र श्री मीठा लाल जी, जाति जैन, निवासी-203- डी एन एस टावर, भारत गैस के उपर, तम्भी नाका, कोर्ट से पास, थाना वेस्ट, महाराष्ट्र-400601

8. किरणराज गादिया पिता कपूरचन्द गादिया आयु 62, जाति जैन, निवासी-मकान नम्बर 15 राणाप्रताप चौक पाली मारवाड राजस्थान-306440 ।"