
(1992) 03 AHC CK 0014

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 17179 of 1991

Yashpal Wadhwa

APPELLANT

Vs

District Judge and Others

RESPONDENT

Date of Decision : 25-03-1992

Acts Referred:

Societies Registration Act, 1860 — Section 25

Citation : (1992) 2 AWC 652

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : Ashok Bhushan, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—This case has a chequered history, and hence, I will only mention such facts as are relevant for the present controversy.

2. As is usual now a days, rival bodies claiming to be office bearers of a society running an educational institution have put forward their claims in respect of Arya Kanya Pathshala Association, which is a society, registered under the Societies Registration Act While Respondent No. 3 claims that the meeting of the society was held on 26-10-1986 in which he was elected Manager, the Petitioner alleges that the genuine meeting was held on 6-1-1987 The Assistant Registrar, Meerut made a reference u/s 25 of the Societies Registration Act to the Prescribed Authority, who by his order dated 12-11-1990 upheld the claim of the Respondent No. 3 vide annexure-4 to the writ petition. This order was challenged in writ petition No. 30920 of 1990, which was allowed by this Court on 8-1-1991 vide annexure-5 to the writ petition, but against the said judgment Respondent No. 3 went up to the Hon'ble Supreme Court who set aside the judgment of this Court by its order dated 24-4-91 (Annexure-6 to the writ petition). The Hon'ble Supreme Court was of the view that since serious disputes of fact have arisen for determination, the High Court should not have gone into the matter in writ jurisdiction, but should have relegated the parties to a regular suit if they wanted

to challenge the order of the prescribed authority (the Sub Divisional Officer). Thereafter suit No. 80 of 1991 was filed by the Petitioner and Respondent Nos. 23 and 24 in the court of Munsif, Khurja, who by his order dated 7-5-1991 stayed the order of the Sub Divisional Officer dated 12-11-1990, and directed the parties to maintain status quo. Against the said order of the learned Munsif, Mangaldeo Verma and others filed an appeal before the learned District Judge, Bulandshahr who by the impugned order dated 31-5-1991 admitted the appeal, and stayed the operation of the order dated 7-5-1991. It is against this order of the learned District Judge dated 31-5-1991 that the present writ petition has been filed.

3. The contention of the Petitioner is that the order dated 7-5-1991 of the learned Munsif was a just order, and the learned District Judge should not have stayed the same. The Petitioner has contended that he is in effective control of the affairs of the institution, and the learned District Judge should not have stayed the order dated 7-5-1991. The Petitioner has further contended that he is managing the institution since the last many years, but on the strength of the interim order of the District Judge dated 31-5-91, the Defendants are trying to interfere with the functioning of the association and the Intermediate order is contrary to the order dated also contended that the impugned order is contrary to the order dated 19-11-90 granted by the District Judge in appeal against the injunction order dated 13-9-1990 granted by the learned Munsif in suit No. 145 of 1990.

4. A counter affidavit has been filed in this case, and I have perused the same. I have also heard the counsels for the parties. It is contended in para 11 of the counter affidavit that the Petitioner and eight other persons were expelled from the general body of Arya Sainaj, Khurja by the order dated 26-10-86, and the election dated 6-12-87 and 4-11-90 have no legal sanctity. However, the allegations in paras 42 to 44 of the writ petition that the Petitioners are in effective control of the affairs of the institution, and are managing the affairs of the Intermediate College as well as Degree College for the last many years have not been denied.

5. In these circumstances, I am of the opinion, that the learned District Judge should not have stayed the operation of the order of the learned District Judge should not have stayed the operation of the order of the learned Munsif dated 7-5-91. It is settled law that in the matter of injunction prima facie case and balance of convenience have to be seen, and these have not been adverted to by the District Judge. Hence, I allow this writ petition and set aside the impugned order of the District Judge dated 31-5-1991 (annexure-10 to the writ petition) to the extent that it has stayed the operation of the order of the learned Munsif dated 7-5-1991, and I direct that the order of the learned Munsif dated 7-5-1991, shall continue until the decision of the appeal by the learned District Judge. However, in the circumstances of the case I direct that the learned District Judge shall dispose of the appeal against the order of the learned Munsif dated

7-5-91 within six weeks of production of a certified copy of this order before the learned District Judge, Bulandshahr. There is no order as to costs.

6. A certified copy of this order may be given to the learned Counsel for the parties on payment of usual charges within three days.