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CS SCJ 1377/22

HINDUSTAN SCOUTS AND GUIDES ASSOCIATION

Vs.

SH. CHAMPAT SINGH

30.07.2024

Present : Sh. Umesh Kashyap and Sh. N.K. Joshi, Counsels for plaintiff.

Dr. Atul Kumar, Joint Secretary in person on behalf of plaintiff.

None for defendant.

1. Vide this order, application under Order 7 Rule 11 CPC filed on behalf of defendant shall be decided.

2. The brief facts necessary for disposal of the present application are that the plaintiff has filed the present suit for permanent and mandatory injunction stating that the defendant is the Ex-National Secretary of the plaintiff society and on completion of 70 years of age on 07.02.2022, he is no longer eligible to hold the post of National Secretary as per the Govt. of India order bearing no.F-46-6/2016-NPYAD dated 19.09.2017 and accordingly, a new National Secretary was appointed by the executive members of the society vide its meeting held on 27.02.2022. It is further stated that the defendant, despite being aware of the aforementioned facts, is intentionally and fraudulently representing himself as the National Secretary of the plaintiff society. Hence, the present suit has been filed.

3. The defendant has filed an application under Order 7 Rule 11 CPC stating that the present suit is not maintainable without seeking the declaration of the title. It is further stated that

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the defendant has filed the suit for declaration which is pending before Ld. ADJ, Rohini Court. It is further stated that the present suit has been filed on the basis of wrong address of the plaintiff society. With these submissions, it is prayed that the plaint be rejected. Reliance has been placed upon judgment titled as *T.V. Ramakrishna Reddy Vs. M. Mallappa & Anr. passed by Hon'ble Supreme Court of India.*

4. In reply to the said application, it is stated by the plaintiff that the plaintiff association has already conducted the due election for the tenure 2023 to 2026 on 01.10.2023 and that after superannuation of the defendant, the National Executive Committee has appointed Sh. Girish Juyal as National Secretary of the society. It is further submitted that the grounds pleaded by the defendant for rejection of the plaint do not fall in any of the six categories enumerated under Order 7 Rule 11 CPC. With these submissions, it is prayed that the present application be dismissed.

5. Arguments heard. Record perused.

6. The law is well settled that while deciding application under Order 7 Rule 11 CPC, the court is only required to look into the plaint and the documents annexed therewith. In the present case, documents of the plaintiff show that election has been conducted for the tenure 2023 to 2026 after expiry of the term of the erstwhile National Council and Executive Committee. Further, it is not the case of the plaintiff that the election in which the defendant was elected as a National Secretary of the plaintiff society was conducted unlawfully. Rather, the plaintiff has

asserted that the defendant had completed the age of 70 years on 07.02.2022 and hence, he cannot hold the post of National Secretary from this day. Thus, when the plaintiff has not challenged the election of the defendant in the plaintiff society as National Secretary on the basis of validity of election but has questioned his eligibility to continue on the post on attaining the age of 70 years, it cannot be said that the plaintiff was required to seek the relief of declaration of the election held in the year 2019 as null and void.

7. In view of the above discussion, present application under Order 7 Rule 11 CPC is dismissed.

Last opportunity is given to the defendant to file reply to application under Order 7 Rule 14 CPC with advance copy to the opposite party.

Put up for reply and arguments on application under Order 7 Rule 14 CPC on **18.11.2024**.

**(NEHA MITTAL)**  
**JSCC-cum-ASCJ-cum-GJ**  
**North-West, Rohini Courts**  
**Delhi/30.07.2024**