



GAHC010249692023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/350/2023

SATYANARAYAN AGARWAL AND ANR
SON OF LATE GIGRAJ AGARWAL, RESIDENT OF NA-PUKHURI ROAD,
TINSUKIA, P.O., P.S. AND DIST.- TINSUKIA, ASSAM, PIN- 786125

2: SRI PRAKASH KUMAR BAID
C/O- V.M.ENTERPRISES
A.T.ROAD
P.O.
P.S. AND DIST.- TINSUKIA
ASSAM
PIN- 78612

VERSUS

SCHOOL MANAGEMENT COMMITTEE TINSUKIA ENGLISH ACADEMY
AND 2 ORS
(A CO-ED SENIOR SECONDARY SCHOOL), MANAV KALYAN NAMGHAR
ROAD, TINSUKIA, P.O., P.S. AND DISTRICT- TINSUKIA, ASSAM, PIN- 786125

2:SRI RAMAN AGARWAL
SON OF LATE SADHURAM AGARWAL
PRESIDENT- SCHOOL MANAGEMENT COMMITTEE
TINSUKIA ENGLISH ACADEMY
MANAV KALYAN NAMGHAR ROAD
TINSUKIA
P.O.
P.S. AND DISTRICT- TINSUKIA
ASSAM
PIN- 786125

3:SRI RAM EKBAL YADAV
PRINCIPAL- TINSUKIA ENGLISH ACADEMY AND SECRETARY - SCHOOL
MANAGEMENT COMMITTEE



TINSUKIA ENGLISH ACADEMY
MANAV KALYAN NAMGHAR ROAD
TINSUKIA
P.O.
P.S. AND DISTRICT- TINSUKIA
ASSAM
PIN- 78612

Advocate for the Petitioner : MR. BHASKAR DUTTA, SENIOR ADVOCATE

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

JUDGMENT & ORDER (ORAL)

Date : 06-11-2023

Heard Mr. B. Dutta, learned senior counsel for the petitioners.

2. The petitioners namely, Satyanarayan Agarwal and Prakash Kumar Baid are arrayed as defendants No. 1 and 2, respectively in Title Suit No. 55/2022 in the Court of learned Munsiff, Tinsukia. Title Suit No. 55/2022 had been instituted by the School Management Committee Tinsukia English Academy as plaintiff No. 1, Raman Agarwal being the President of the School Management Committee as plaintiff No. 2 and Ram Ekbal Yadav being the Secretary of the School Management Committee as plaintiff No. 3. In the suit the Tinsukia English Academy Society and Manav Kalyan Trust respectively are arrayed as proforma defendants. In the suit, the petitioners herein made an application under Order VII Rule 11 of the CPC for rejection of the plaint which was registered as Misc. (J) Case No. 67/2023. Misc. (J) Case No. 67/2023 was given a final consideration by the order dated 12.10.2023 and taking note of the provisions of Order VII Rule 11 read with Section 151 of the CPC, the Court was of the view that it was not a fit case for rejection of the plaint and accordingly, Misc.

(J) Case No. 67/2023 was rejected. Being aggrieved, this revision under Article 227 of the Constitution has been instituted.

3. Mr. B. Dutta, learned senior counsel for the petitioners has raised two contentions for assailing the order impugned dated 12.10.2023 in Misc. (J) Case No. 67/2023. The first contention is that the plaintiff respondent School Management Committee Tinsukia English Academy had been constituted by the Tinsukia English Academy Society and it being so, it has no locus standi to institute the Title Suit No. 55/2022. The second contention is that the Title Suit No. 55/2022 is essentially a suit against the Tinsukia English Academy Society and it being so, there is a requirement to follow the provisions of Order I Rule 8(1) of the CPC meaning thereby, that it being suit against the interest of numerous persons, prior permission of the Court would be required for institution of a suit which in the instant case had not been obtained.

4. On the first contention that the School Management Committee Tinsukia English Academy has no locus standi to institute Title Suit No. 55/2022, we accept the contention made by Mr. B. Dutta, learned senior counsel for the petitioners that the School Management Committee had been constituted by the Tinsukia English Academy Society. But what is noticed is that the Title Suit No. 55/2022 had been instituted seeking the following reliefs:

- “(i) Declaration that the plaintiff no.1 i.e. School Management Committee represented by the plaintiff nos. 2 and 3 are the legally authorized persons to manage the affairs of the school i.e Tinsukia English Medium Academy;*
- (ii) Declaration that the defendant nos.1 and 2 have no any right and authority to interfere into the running and operation of the management of the school i.e Tinsukia English Academy;*
- (iii) Permanent injunction restraining the defendant nos. 1 and 2, their men, agents, servants or any person(s) claiming through or under them from disturbing the peaceful management of the school- Tinsukia English Academy or doing any act prejudicial to the interests of the plaintiffs as well as the Tinsukia English Academy in any manner whatsoever;*
- (iv) Temporary Injunction as prayed above;*

- (v) *Leave under Order II, Rule 2;*
- (vi) *Leave under Order VI, Rule 17;*
- (vii) *Cost of the suit*
- (viii) *Any other relief(s) which the plaintiffs are entitled under the law."*

5. The first relief sought for is for a declaration that the School Management Committee of Tinsukia English Academy being represented by the plaintiffs No. 2 and 3, namely, Raman Agarwal and Ram Ekbal Yadav are legally authorized persons to manage the affairs of the school and the second relief is for a declaration that the defendants No. 1 and 2 in the suit namely, Satyanarayan Agarwal and Prakash Kumar Baid have no right and authority to interfere in the running and operation of the management of the school i.e. Tinsukia English Academy.

6. If the contentions of Mr. B. Dutta, learned senior counsel for the petitioners is to be accepted that the plaintiff School Management Committee Tinsukia English Academy had been constituted by the Tinsukia English Academy Society, we have to understand that by virtue of such appointment certain rights had been bestowed upon the School Management Committee Tinsukia English Academy for carrying forward the management affairs of the Tinsukia English Academy. If any authority is interfering with the exercise of the legal right of the plaintiff School Management Committee Tinsukia English Academy in discharging the management affairs of the school, no reason is noticeable as to why the School Management Committee Tinsukia English Academy cannot institute a suit for a declaration of their legal right to manage the affairs of the Tinsukia English Academy. It is of course another matter as to whether any person or entity is interfering with the right to manage the affairs of the school, but it is another aspect that the School Management Committee does not have the locus standi to institute the suit alleging interference with

their right to manage the affairs of the school.

7. From such point of view, we have to reject the first contention on behalf of the petitioners in the present revision that the respondent School Management Committee Tinsukia English Academy does not have the locus standi to institute the suit so as to warrant the rejection of the plaint. In this respect, we take note of the provisions of Order VII Rule 11 of the CPC which extracted as below:

“11. Rejection of plaint.—The plaint shall be rejected in the following cases—
(a) where it does not disclose a cause of action;
(b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the court, fails to do so;
(d) where the suit appears from the statement in the plaint to be barred by any law;
(e) where it is not filed in duplicate;
(f) where the plaintiff fails to comply with the provisions of Rule 9:
Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the court and that refusal to extend such time would cause grave injustice to the plaintiff.”

8. A reading of the provisions of Order VII Rule 11 of the CPC makes it discernible that a plaint may be rejected where it does not disclose a cause of action, or where the relief claimed is undervalued and the plaintiff upon being required to correct fails to do so, or where the relief claimed is properly valued but the plaint is returned upon the papers being insufficiently stamped and the plaintiff fails to incorporate the necessary correction, or where the suit appears from the statements in the plaint to be barred by any law, or where it is not filed in duplicate, or where the plaintiff fails to comply with the provisions of

Rule 9, or where the proviso thereof is applicable regarding the time provided for incorporating the necessary corrections.

9. The reliefs sought for by the plaintiffs for a declaration that plaintiffs No. 2 and 3 are legally authorized persons to manage the affairs of Tinsukia English Academy and for a declaration that the defendants No. 1 and 2 have no right and authority to interfere in the running and operation of the management of the school makes it discernible that such reliefs are sought for on the basis of an allegation that there is some interference in their right to manage the affairs of the school. From such point of view, it appears that it is not a case where the plaint does not disclose a cause of action. Accordingly, it cannot be accepted that the conditions provided in Order VII Rule 11 of the CPC for rejection of a plaint is satisfied in the present case.

10. The second contention raised by Mr. B Dutta learned senior counsel for the petitioners is that the relief which is sought in the title suit is essentially against the Tinsukia English Academy Society and, therefore, the provisions of Order I Rule 8(1) would be applicable. For an effective adjudication of the said contention, we refer to the provisions of Order I Rule 8(1) which is extracted as below:

*“8. One person may sue or defend on behalf of all in same interest.
(1) Where there are numerous persons having the same interest in one suit,-
(a) one or more of such persons may, with the permission of the Court, sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested;
(b) the Court may direct that one or more of such persons may sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested.”*

11. A reading of the provisions of Order I Rule 8(1) makes it discernible that when there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the Court, sue or be sued, or



may defend such suit, on behalf of, or for the benefit of, all the persons so interested.

12. Reliance is placed upon the Order I Rule 8(1) to substantiate the contention that the Title Suit No.55/2022 is essentially a suit against the Tinsukia English Academy Society and, therefore, there are numerous persons, who are having the same interest in one suit. In order to appreciate the contention of Mr. B Dutta, learned senior counsel for the petitioners, we again refer to the relief sought for in the plaint in the Title Suit No.55/2022. It is noticed that the second relief sought for is that the defendants No.1 and 2, namely, Satyanarayan Agarwala and Prakash Kumar Baid respectively being the President and Secretary of the School Management Committee Tinsukia English Academy be restrained from interfering with the management of the school i.e., Tinsukia English Academy. A plain reading of the relief sought for makes it discernible that Title Suit No.55/2022 is essentially for restraining the defendants No.1 and 2, namely, Satyanarayan Agarwala and Prakash Kumar Baid respectively and no relief is being sought for against the Tinsukia English Academy Society as a whole or against any other member or person associated with the Tinsukia English Academy Society. To substantiate his contention that Title Suit No.55/2022 is essentially against the Tinsukia English Academy Society, Mr. B Dutta, learned senior counsel relies upon a public notice dated 22.09.2022 issued by Satyanarayan Agarwala and Prakash Kumar Baid respectively being the President and Secretary of the School Management Committee Tinsukia English Academy that the Title Suit No.55/2022 is essentially against the said public notice.

13. It is the further contention that the referred public notice is by the defendants No.1 and 2 as per their status as the President and Secretary

respectively of the School Management Committee Tinsukia English Academy. To further substantiate the said contention, reference is made to the averments made paragraph 21 of the plaint in Title Suit No.55/2022 wherein it is provided as extracted:

“21. that the act and conduct of the defendant nos.1 and 2 by publishing the Public Notice in the news papers namely Purbanchal Prahari and Amar Axom on 22/09/2022 is an act in furtherance of their illegal acts to take over the domain of the school which is per se illegal.”

14. A conjoint reading of paragraph 21 of the plaint with the relief sought for does not make it discernible that the public notice dated 22.09.2022 is being assailed in Title Suit No.55/2022, which notice essentially had been issued by the defendants No.1 and 2 on their capacity as the President and Secretary respectively of the School Management Committee Tinsukia English Academy. A reading of paragraph 21 makes it discernible that the said public notice is sought to be used as a material by the plaintiff School Management Committee Tinsukia English Academy to substantiate their allegation that the defendants No.1 and 2 are interfering in managing the affairs of the school. A material sought to be relied upon in a proceeding may either be accepted or rejected by the Court in course of its adjudication, but reliance upon a particular material cannot *ipso facto* lead the Court to accept that the material relied upon itself is being assailed in the proceeding. We are not expressing any view on the merit of the allegations raised in Title Suit No.55/2022 that the plaintiff School Management Committee Tinsukia English Academy has the legal right to manage the affairs of the Tinsukia English Academy and that there is interference in such legal rights by the defendants No.1 and 2, namely, Satyanarayan Agarwala and Prakash Baidya. But what is noticed is that the plaint seeks for a relief specifically to restrain the defendants No. 1 and 2,



namely Satyanarayan Agarwala and Prakash Kumar Baid from interfering in managing the affairs of the school and it does not seek for any relief against the Tinsukia English Academy Society as a whole or against any other person associated with the society. From such point of view, it cannot be construed that Title Suit No.55/2022 is against numerous persons having the same interest in one suit.

15. In view of the above, we do not notice any applicability of the provisions of Order I Rule 8(1) of the CPC requiring the plaintiffs to obtain prior permission from the Court to proceed against the numerous persons as has been alleged in this petition by the petitioner-defendants 1 and 2. From such point of view, we do not notice any infirmity in the order impugned dated 12.10.2023 in Misc. (J) Case No.67/2023.

16. But, however, we are clarifying that this adjudication is made on the premises that the relief sought for in Title Suit No.55/2022 is for a declaration restraining the defendants No.1 and 2 namely, Satyanarayan Agarwala and Prakash Kumar Baid from interfering with the legal rights of School Management Committee Tinsukia English Academy for managing the affairs of the school and not against any other person or the Tinsukia English Academy Society as a whole. Secondly, we are also clarifying that Title Suit No.55/2022 should not be construed to be a title suit assailing the public notice dated 22.09.2022 issued under the signature of Satyanarayan Agarwala being the President and Prakash Kumar Baid being the Secretary, respectively, of the School Management Committee Tinsukia English Academy, although the said public notice may be relied upon by the plaintiff School Management Committee Tinsukia English Academy to substantiate the allegations made in the Title Suit No.55/2022 subject to its admissibility and acceptability under the law.



17. We also find substance in the submission of Mr. B Dutta, learned senior counsel that it being a suit by a School Management Committee, which is constituted for a period of three years, the suit itself be decided at the earliest, so that the issue involved can be given its finality. Accordingly, the learned Munsiff No.2, Tinsukia is requested to complete the proceeding within a period of six months from the date of receipt of the certified copy of this order and we also require both the plaintiffs namely, the School Management Committee of Tinsukia English Academy along with its President and Secretary being the plaintiffs No. 2 and 3 and the defendants No.1 and 2 namely Satyanarayan Agarwala and Prakash Kumar Baid as well the Tinsukia English Academy Society to cooperate to the fullest extent so that the matter can be disposed of within the period as indicated above.

18. In terms of the above, the revision petition stands disposed of.

JUDGE

Comparing Assistant