

Shri Guru Ravidas Sabha of N.Y., Inc. v Paul

2013 NY Slip Op 31883(U)

August 13, 2013

Sup Ct, Queens County

Docket Number: 4589/13

Judge: Bernice Daun Siegal

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Short Form Order

NEW YORK STATE SUPREME COURT – QUEENS COUNTY
Present: HONORABLE BERNICE D. SIEGAL IAS TERM, PART 19
Justice

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Shri Guru Ravidas Sabha of New York, Inc.,
Shri Guru Ravidass Sabha,
Plaintiffs,

Index No.: 4589/13
Motion Date: 5/28/13
Motion Cal. No.: 140
Motion Seq. No.: 1

-against-

Pinder Paul, Balbir Chand, Chuhar Singh, Param
Jit Lal (East Elmhurst), Mohan Lal, Balbir Chauhan,
Amar Chumber, Ramesh Mahey, Madhan Singh
Badhan, Pawan Kumar, Balvinder S. Bhaura,
Bhadhar Singh, Vas Dev, Param Jit, Ashok Mahi,
Sohan Lal & Sukhwinder Singh,

Defendants.

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The following papers numbered 1 to 12 read on this motion for an order enjoining and restraining *pendente lite* defendants (1) Pinder Paul, 21-53 75th Street, East Elmhurst, New York 11370; (2) Balbir Chand, 24-21 77th Street, Jackson Heights, New York 11370; (3) Chuhar Singh, 30-14 75th Street, East Elmhurst, New York, 11370; (4) Param Jit Lal (East Elmhurst), 25-11 86th Street, East Elmhurst, New York 11369; (5) Mohan Lal, 123-29 95th Avenue, Richmond Hill, New York 11419; (6) Balbir Chauhan, 79 Flower Road, Valley Stream, New York 11581; (7) Amar Chumber, 24-21 77th Street, Jackson Heights, New York 11370; (8) Ramesh Mahey, 76-16 263rd Street, Glen Oaks, New York 11004; (9) Madhan Singh Badhan, 151 Ridge Avenue, Apt 2R, Yonkers, New York 10703; (10) Pawan Kumar, 24-26 43rd Street, Astoria, New York 11103; (11) Balvinder S. Bhaura, 53-21 104th Street, Corona, New York 11368; (12) Bhadhar Singh, 41-57 70th Street, Woodside, New York 11377; (13) Vas Dev, 103-02 29th Avenue, East Elmhurst, New York 11369; (14) Param Jit, 40-17 Gleane Stret, Elmhurst, New York 11373; (15) Ashok Mahi, 121-02 95th Avenue, Richmond Hill, New York 11418; (16) Sohan Lal, 107-17 106th Street, Ozone Park, New York 11417; and (17) Sukhwinder Singh, 41-11 28th Avenue, Apt 14, Astoria, New York 11103 (“defendant”) and why defendants should not be permanently enjoined from (a) engaging in further acts of violence and mayhem against the plaintiffs and current Management Committee and Board of Trustees; (b) restrained from entering into or upon the property located 61-01 Broadway, Woodside, New York 11377, until such time as the membership status of the defendants in plaintiffs may be determined by the duly elected Management Committee and Board of Trustees; (c) enjoined from acting in any matter intended to cause disruption, violence or mayhem against the plaintiffs or

said governing officers and trustees.

	PAPERS NUMBERED
Order to Show cause - Affidavits-Exhibits.....	1 - 4
Affirmation in Opposition.....	5 - 9
Affirmation in Reply.....	10 - 12

Upon the foregoing papers, it is hereby ordered that the motion is resolved as follows:

Facts

Shri Guru Ravidass Sabha (the Temple) is a religious institution “formed to serve all Addharmi/Ravidasis to attain their spiritual and religious enlightenment who have been neglected by the Hindu caste system.” Located at 61-01 Broadway, Woodside, New York, the Temple was incorporated as Shri Guru Ravidas Sabha of New York, Inc., (the “Corporation”) a New York Corporation organized under the Not-for Profit Law.¹ The Temple and Corporation (collectively “Plaintiffs”) commenced the present action by Order to Show Cause seeking to restrain and enjoin [seventeen members of the Temple (collectively “Defendants”)] temporarily, from committing acts of “disruption, mayhem and violence against the plaintiffs or said governing officers and trustees...”. The Temple contends that such action was necessitated because defendants, members of the Temple who support leadership other than the current

¹In previous actions, the Shri Guru Ravidass Sabha was denominated as an a/k/a of the Corporation. For Purposes of this motion, hereinafter Plaintiffs collectively will be denominated as the “Temple” or Plaintiffs and the Not For Profit Corporation will be denominated as the Corporation.

Management Committee and Board of Trustees, allegedly disrupted an important religious celebration, a birthday party thrown for Shri Guru Ravidass (“Shri”) on March 3, 2013 and for flouting the authority of the duly elected Management Committee and Board. Plaintiffs further contend that an injunction against said Defendants is necessary to allow the membership status of the defendants to be properly reviewed by the Management Committee, Board and Temple membership.

The disruption of Shri’s birthday party is the culmination of a series of events emanating from differences in leadership and religious beliefs by members of the Temple. Initially the Temple was incorporated in the 1990s. The Temple originally did not hold elections, but instead had Management Committee officers (10) and the Board of Trustees (10) selected by leading members of the Temple. Up until 2005, the “selection” had members of both factions with several neutral members ensuring a balance within the governing body. However, in 2005 defendant Pinder Paul was selected as president, giving one side more power within the Temple. In 2008 another dispute arose between parties over the Temple’s leadership resulting in litigation. (*Nand Lal et al. v. Shri Guru Ravidas Sabha of New York, Inc.*, Index No. 4629/2008). As a result of the litigation, an enrollment of all registered members of the Temple took place, totaling 1,753 as of December 2008, and an election was held on June 14, 2009. In that election members supporting the current Board and Management lost and those members representing defendants won. In 2011, another dispute over the governing body arose resulting in litigation. (*Nand Lal et al. v. Shri Guru Ravidas Sabha of New York, Inc.*, Index No. 16218/2011). The Management Committee and Board of Trustees were removed by court order and a general election was held on November 25, 2012. In that election the current Management Committee

and Board of Trustees, collectively the governing authority of the Temple, took control. The election was disputed by the ousted management, despite the court oversight and oversight by the American Arbitration Association, alleging that a large portion of voters boycotted the election over a dispute regarding voter registration.

The religious celebration, a celebration of the birth of Shri, costing The Temple between \$15,000- \$20,000, was disrupted allegedly by the Defendants requiring the police to be called to the Temple. At the core of the disruption was the actions of a group of Temple members including the named defendants, who attempted to place a picture of Dr. Ambedkar on the Temple alter. However, the members of the Board and Management Committee objected because they consider Dr. Ambedkar a political figure and not a religious figure. In the moving documents both parties dispute how Dr. Ambedkar should be perceived. Further, the movants dispute if the portrait of Shri Guru Ravidass is displayed by Sikhs or not. Both parties claim they are the more devout of the two and the other side has inappropriate ulterior motives. Both parties claim the other is the more violent group. It is also alleged that a compatriot of the plaintiff has acted out violently towards one defendant, Balbir Chauhan, whom was granted an Order of Protection by Queens Criminal Court.

Discussion

Initially, the court notes that the Temple's papers are unclear with respect to the relief requested in that the Order to Show cause seeks an order "enjoining and restraining *pendente lite* defendants..." but then goes on to request "and why defendants should not be permanently enjoined from: engaging in further acts of violence...". Given the procedural posture of the within proceeding, the Court must determine if a temporary restraining order is appropriate.

Permanent Injunction

“A permanent injunction is a drastic remedy which may be granted only where the plaintiff demonstrates that it will suffer irreparable harm absent the injunction”. (*Icy Splash Food & Beverage, Inc. v. Henckel*, 14 A.D. 3d 595 [2nd Dept. 2005]; *Merkos L’Inyonei Chinuch, Inc. v. Sharf*, 59 A.D. 3d 403 [2nd Dept. 2009]; *Parry v. Murhpy*, 79 A.D. 3d 713 [2nd Dept. 2010]). The only allegation put forth by the plaintiff of harm is that defendants caused “violence and mayhem.” To support this, the Plaintiffs point to the disruption of Shri’s birthday party, allegedly by the defendants. However, Plaintiffs have not established that the defendants started or caused that disruption. Further, the Plaintiffs do not establish any continued or further “violence and mayhem” that will occur. In fact, evidence shows that Plaintiffs or their compatriots are just as likely to be a source of violence and mayhem based, in part, upon a criminal protection order against one of them. Lastly, permanently enjoining the defendants from practicing their religion at the Temple is far too harsh when the plaintiffs fail to show harm, much less irreparable harm absent the injunction. (*See Merkos L’Inyonei Chinuch, Inc. v. Sharf*, 59 A.D. 3d 403 [2nd Dept. 2009] [finding permanent injunction banning defendants from the religious institution unwarranted when plaintiffs failed to demonstrate threat or violation to property, or any causal link between damage and defendants].)

Preliminary Injunction

The “purpose of a preliminary injunction is to preserve the status quo pending a trial” and “the remedy is considered a drastic one, which should be used sparingly.” (*Trump on the Ocean, LLC v. Ash*, 81 A.D.3d 713, 715 [2nd Dept 2011].) “As a general rule, the decision to grant or deny a preliminary injunction lies within the sound discretion of the Supreme Court.” (*Id.*; *Doe*

v. Axelrod, 73 N.Y.2d 748 [1988].) “In exercising that discretion, the Supreme Court must determine if the moving party has established: (1) a likelihood of success on the merits, (2) irreparable harm in the absence of an injunction, and (3) a balance of the equities in favor of the injunction.” (*Trump on the Ocean, LLC v. Ash*, 81 A.D.3d 713, 715 [2nd Dept 2011]; *Aetna Ins. Co. v. Capasso*, 75 N.Y.2d 860 [1990]; *W. T. Grant Co. v. Srogi*, 52 N.Y.2d 496 [1981].)

In view of the conflicting affidavits and plaintiffs unsupported claims that the defendants had been the sole cause of the disruptions, plaintiffs have failed to clearly establish a likelihood of success on the merits. (See *Joseph v. Joseph*, 108 A.D.3d 597 [2nd Dept 2013] see also *Radiology Associates of Poughkeepsie, PLLC v. Drocea*, 87 A.D.3d 1121 [2nd Dept 2011].) In addition, while an order preventing Defendants from entering their place of worship would potentially benefit plaintiffs, it would just as likely cause irreparable harm upon defendants and their right to practice their religion. Accordingly, the plaintiffs have failed to establish that a balance of the equities is in their favor. (See *Joseph v. Joseph*, 108 A.D.3d 597 [2nd Dept 2013] see also *Lombard v. Station Square Inn Apartments Corp.*, 94 A.D.3d 717 [2nd Dept 2012]; *Laro Maintenance Corp. v. Culkin*, 255 A.D.2d 560 [2nd Dept 1998].)

Conclusion

For the reasons set forth above, Plaintiffs’ motion is denied in all respects.

Dated: August 13 , 2013

Bernice D. Siegal, J. S. C.