



In the High Court of Justice
High Court Appeal Centre Royal Courts of Justice
Business and Property Courts of England and Wales, Chancery Division
Order of Master Pester dated 2 July 2021
Case number: PT-2020-000333
Appeal ref: CH-2021-000162

CH-2021-000162

IN THE MATTER OF THE SIRI GURU SINGH SABHA (the “Charity”)

BETWEEN

1. Dr Mohinder Mohan Singh Galowalia
2. Mrs Jasvinder Johal
3. Mr Jaspal Singh Bajwa

(suing on their own behalf and as representative Claimants of all the members of the Charity contending for the declarations sought by the claim form herein)

Claimants and Respondents

and

1. Mr Kulwant Singh Aulak
2. Mr Jagjeet Singh Padda
3. Mr Gurdial Singh Ahlwalia

(sued on their own behalf and as representative Defendants of (1) those claiming to be “the New Executive Committee” of the Charity and (2) all the remaining members of the Charity and any other persons who are not members of the Charity but claim to be entitled to participate in the governance of the Charity)

Defendants and Appellants

ORDER

Before **the Honourable Mr Justice Trower** sitting at the Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL on the 2 December 2021

UPON the appellant’s notice dated 22 July 2021

AND UPON perusing the appeal file herein

IT IS ORDERED THAT:

1. Permission to appeal is refused.

2. The Appellants may, within seven days of receipt of this Order, apply for a hearing at which they may renew their application for permission to appeal. A hearing will then be listed before Mr Justice Trower at the Rolls Building on a date to be fixed, with a time allowed of 1 hour. Any such application should be made by CE-filing a letter of request under the appeal reference numbers above, or alternatively by email to ChanceryJudgesListing@justice.gov.uk or by post to the Chancery Appeals Office, Rolls Building, Fetter Lane, London EC4A 1NL quoting the above appeals reference number. A copy of the application must also be sent to the Respondents at the same time.

REASONS

3. There is no real prospect of success on ground 1 of the appeal:
 - a. The act of placing documents on the noticeboard is contemplated by the 1999 constitution as the appropriate means for giving notice in a number of different contexts and the Master was not wrong to conclude that this mechanism was both authorised and appropriate for all of the constitutional changes adopted at the 15 June 2014 meeting.
 - b. In the light of the factors described in paragraph 63(i) of his judgment, the Master was entitled to conclude that the ‘alternative proposed’ was sufficiently identified by the placing of the new form of constitution on the noticeboard. The wording of clause 19 of the 1999 constitution did not require specific identification of each clause that was to be changed. It was sufficient for compliance with clause 19 that the alteration was identifiable from a comparison of the existing form of the constitution with its proposed altered form, so long as the new form was notified by an authorised means, which it was.
 - c. The factors described in paragraphs 63(ii) to 64 of the Master’s judgment are confirmatory of his conclusion that the requirements of clause 19 had been both complied with and regarded by the membership as having been complied with for several years.
4. There is no real prospect of success on ground 2 of the appeal:
 - a. The Master was not wrong to conclude that it was unnecessary for the 2014 constitution to be amended in order to change the address of the Gurdwara from Spencers Road to Ifield Green. The change simply required that Ifield Green be identified as “such other place of worship as the SABHA shall from time to time decide upon”.
 - b. To the extent that it is said that a two thirds majority pursuant to clause 18.2 of the 2014 constitution was required, there is no real prospect of success in that argument. The 2014 constitution does not make provision for a two thirds majority on any issue apart from a change to the constitution itself, which as I have said is not required.

- c. All that is required is for the Sabha to make a decision, as to which the Master was entitled to conclude that a decision had been reached without a formal resolution, but rather through the course of events described in paragraphs 83 to 93 and 98 of his judgment. In the light of the Master's approach to the principles underpinning the construction of the rules of an unincorporated association, which he accurately summarised earlier in his judgment and which are rightly not challenged by the appellant, there is no real prospect of success in showing that anything more formal was required. I am satisfied that the Master was entitled to reach the conclusion that he did.
 - d. In particular I do not consider that the criticism made of the opinion poll as the means by which, in all the other circumstances relied on, the decision was made is justified. The Master was entitled to conclude, and it is not reasonably arguable that he was not, that the result of the opinion poll amounted to a decision in the light of what had gone before.
5. As to ground 3, there is no real prospect of success on an appeal against the view that the Master took as to the application of the general rule in relation to the incidence of costs. It is plain that the respondents were the successful party and none of the relatively rare situations in which an appeal against the exercise of the lower court's discretion as to costs has a real prospect of success. While it might have been open to the Master to apply the percentage discount suggested in paragraph 35 of the grounds of appeal for the reasons there given, the fact that he did not do so does not mean that the conclusion he reached fell outside the generous ambit of the discretion he was entitled to exercise. There is no real prospect that the appeal court will conclude that he was wrong to exercise the discretion in the way that he did.

SERVICE OF THE ORDER

The Court has served a sealed copy of this order on:

The Appellants' solicitors, Murria Solicitors at gsingh@murria.co.uk

The Respondent's solicitors, Trowers & Hamlins LLP at NGrover@trowers.com