
(1996) 10 RAJ CK 0015

In the Rajasthan High Court

Case No : Civil Revision Petition No. 694 of 1992

Bajrangdas and Others

APPELLANT

Vs

Vishva Karma Jangid Panchayat and Others

RESPONDENT

Date of Decision : 07-10-1996

Acts Referred:

Rajasthan Public Trusts Act, 1959 — Section 2(6), 22

Citation : (1996) 3 RLW 236 : (1997) 1 WLC 167 : (1996) 2 WLN 165

Hon'ble Judges : V.S. Kokje, J;J.C. Verma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

V.S. Kokje, J.—Vishvakarma Jangid Panchayat Through its President and Managing Trustee of Vishvakarma Boarding House, Shramikpura, Massoriya, Jodhpur filed a suit against Bajrang Das and others seeking a permanent injunction against the defendant restraining them from interfering with property known as Vishvakarma Boarding House as according to the plaintiff it was a property belonging to Jangid community. A relief was also sought to set aside the decision of Assistant Commissioner, Devasthan declaring the property to be a Public Trust. The defendants filed an application under Order 7 Rule 11 of the CPC for rejection of the plaint on the ground that the suit was essentially one challenging the entries made in the Register of Trust ordered to be made by the Assistant Commissioner of Devasthan and such a suit could lie only in the District Court. This application was allowed by the trial Court holding that it had no jurisdiction to entertain the suit and plaint was returned for presentation to the proper Court.

2. The plaintiffs filed an appeal before the District Court against the aforesaid Order of the trial Court. The appellate Court did not agree with the trial Court that no Civil Court other than the District Court had jurisdiction to entertain the suit. The appeal was allowed and the plaint was returned to the trial Court for disposal in accordance with law. Against this Order, a Revision Petition was filed

by the original defendant before this Court. This Revision Petition was transferred to the Division Bench by the Hon''ble Chief Justice on December 20, 1994. This is how the case has come up before the Division Bench.

3. We have heard the learned Counsel for the parties and perused the record.

4. To appreciate the controversy, it would be necessary to quote certain provisions of the Rajasthan Public Trusts Act (for short "the Act" hereinafter). Section 2 (6) of the Act defines "Court" to mean the District Court. Section 22 of the Act provides for a Civil suit which may be filed against entries made u/s 21 of the Act. It reads as under:

22. Civil suit against entries made u/s 21--(1) Any working trustee or person having interest in a public trust or in any property found to be trust property aggrieved by any entry made u/s 21 may, within six months from the date of the publication thereof on the notice board of the office of the Assistant commissioner under Sub-section (1) of Section 21, institute a suit in a civil court to have such entry cancelled or modified.

(2) In every such suit the civil court shall give notice to the State Government through the Assistant Commissioner and the State Government, if it so desires, shall be made a party to the suit.

(3) On the final decision of the suit, the Assistant Commissioner shall, if necessary, correct the entries made in the register in, accordance with such decision.

(Emphasis supplied)

5. The contention of the Revision - petitioner is that read with the definition of "Court" in Section 2(6) of the Act, the words "a Civil Court" in Section 22 will have to be read as "District Court" and therefore any suit u/s 22 of the Act will have to be filed in a District Court alone. The case of the other side on the otherhand is that wherever the word "Court" has occurred in the Act alone, it shall be taken as "District Court" and Section 22 which advisedly used the words "a Civil Court" and not the word "Court" alone, shall mean any Civil Court of competent jurisdiction and not the District Court alone.

6. A general survey of the provisions of the Act shows that the Legislature has used the words "any Civil Court" in some of the provisions of the Act whereas it has used the word "Court" in some other provisions of the Act. In Section 22 of the Act, as we have already seen, the words used are "Civil Court". In Section 26 of the Act, the words used are "any Court of competent jurisdiction." In Section 28, the words used are again "a Civil Court" or "a Revenue Court". Section 29 used the word "in any Court". Then in Chapter-VIII, relating to officers in relation to Public Trusts, in Section 38, the words used are "the Court". In Sections 39, 40, 41, 42 and 43, the words vised are "the Court". Section 44 speaks of "any Civil Court of competent jurisdiction". Again in Chapter IX, in Section 50, the words used are "any Court"

7. It will have to be borne in mind that the definition given in Sub-section (6) of Section 2 of the Code is not absolute and does not permit construction of the word "Court" to mean invariably "the District Court". The opening words of Section 2 are, "in this Act, unless the subject or context requires otherwise. It would therefore be clear that the word "Court" wherever it has been used in the Act, has to be construed as "District Court" unless the subject or context requires otherwise. The words "a Civil Court" used before the word "Court" would change the context and the word "court" in that provision cannot be mechanically read as "District Court". If the word "Court" is invariably read as the "District Court" every where in the Act, the phrase "Civil Court" in Section 22 will have to be read as "a Civil District Court". Obviously, this will lead to redundancy, if not absurdity. A District Court has to be "Civil Court" and it is not any other kind of Court like the Criminal Court or Revenue Court.

8. Clause 18 of the Rajasthan Civil Courts Ordinance, 1950 declares a District Court to be the Principal Civil Court of original civil jurisdiction in the area over which the jurisdiction of the District Judge extends. Thus when the words "a Civil Court" are used they will cover all types of Civil Courts including the District Court. Whenever the Legislature wanted the lis to go before the District Court it has clearly used the word "Court" alone and not the word "a Civil Court" in the Act.

9. The learned Counsel for the Revision - Petitioner submitted that it cannot be taken that the Legislature intended to confer important powers to decide title suit etc. on inferior Civil Courts when it had provided for application to be filed before the District Court relating to other matters covered by Chapter - VIII of the Act. The argument has no force. Section 22 of the Act permits a civil suit against any entry made u/s 21 of the Act. Section 21 provides that the Assistant Commissioner shall cause entries to be made in the register in accordance with the findings recorded by him u/s 19, or, if an appeal has been filed u/s 20, in accordance with the decision in appeal. The findings u/s 19 of the Act have to be recorded after an enquiry u/s 18 of the Act. The enquiry u/s 18 is for the purpose of ascertaining whether a Trust exists or whether such Trust is a Public Trust whether any property is the property of such Trusts whether the whole or substantial portion of the subject-matter of the Trust is situate within the jurisdiction of the Assistant Commissioner, the names and address of the working Trustee and the Manager of the Trust, the mode of succession to the office of the trustee of such trust; the origin nature and object of such trust, the amount of gross average annual income and expenditure of such trust; and the correctness or otherwise of any other particulars furnished under Sub-section (4) of Section 17. On the contrary, Section 38 of the Act provides for an application for direction to a Court meaning thereby a District Court if the Assistant Commissioner on the application of any person having interest in a public trust or otherwise, is satisfied after making such inquiry as he thinks necessary that the original object of the public trust has failed; the trust property is not "being properly managed or administered; or the direction of the court is necessary for

the administration of the public trust, it cannot be said that the subject-matter of a suit u/s 22 of the Act is of greater importance than the subject-matter of an application for direction to the District Court u/s 38 of the Act.

10. It has also to be borne in mind that the comparative importance of the provisions of the Act has to be left to the Legislative wisdom rather than to the wisdom of the court. It was perfectly legitimate for the Legislature to provide for a higher forum for a dispute which in its estimate is of higher importance than for a dispute which was of lesser importance in its eyes.

11. For the aforesaid reasons, we are of the opinion that the words "a civil court" used in Section 22 of the Act, do not mean "District Court "alone and mean any "Civil Court" including "the District Court".

12. We do not find any force in this Revision Petition. It is hereby dismissed. The order dated August 27, 1992 passed by the Additional District Judge No. 1, Jodhpur stands confirmed. There shall be no order as to costs.