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(2014) 12 MP CK 0056

In the Madhya Pradesh High Court

Case No : F.A. No. 155/2011

Dharmendra Ratda APPELLANT

Vs

State of M.P. RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:
Madhya Pradesh Public Trust Act, 1951 — Section 5(2), 6, 7, 8, 8(1)

Citation : (2014) 12 MP CK 0056

Hon'ble Judges : Sheel Nagu, J;S.K. Gangele, J

Bench : Division Bench

Advocate : Yogesh Singhal, Advocate for the Appellant; R.P. Rathi, Govt. Advocate and Sarvesh Sharma, Advocate for the Respondent

Judgement

1. This appeal has been filed against the order dated 05.04.2011 passed in Civil Suit No. /2011 (original).

2. The present appellants have filed a suit with regard to decree of declaration be passed in their favour declaring registration of Public Trust as null and void. The appellants also prayed for other reliefs.

3. It is an admitted fact that there was a society named as Guru Singh Sabha, which was registered under the provision of Society Registration Act. It has some immovable property in the Gurudwara and the appellants were tenants of the society-Guru Singh Sabha.

4. Subsequently, members of the society- Guru Singh Sabha submitted an application before the Sub Divisional Officer for registration of a Public Trust in accordance with provisions of M.P. Public Trust Act, 1951 (for brevity Act of 1951). The Sub Divisional Officer vide order dated 06.04.2010 ordered registration of the Trust and included the property of the society in the Public Trust which was earlier owned by the Society-Guru Singh Sabha.

5. The appellants filed a suit for declaring the order of registration of Public Trust dated 06.04.2010 to be null and void.

6. The trial Court vide impugned order dismissed the suit on the ground that the appellants could not be held to be the persons having interest in the Public Trust, hence, they had no locus standi to file the suit in question.

7. Learned counsel for the appellants submits that the order passed by the learned trial court is against the law and appellants have interest in the trust and they can file a suit in accordance with section 8 of the Act of 1951.

8. Learned State counsel supporting the impugned order submits that the appellants have no locus standi to file a suit because their status is of tenants.

9. It is an admitted fact that the appellants, who were tenants of the society- Guru Singh Sabha pleaded in the plaint that after registration of the trust they became tenants of the trust because the property which was in the ownership of the society- Guru Singh Sabha after registration of the society as Public Trust was transferred to the Public Trust and section 8(1) of the Act of 1951 prescribes civil suit against the findings of the registrar.

10. Section 8(1) of the Act of 1951 is relevant to decide the controversy involved in the present case which reads as under:-

"8. Civil Suit against the finding of the Registrar :- (1) Any working trustee or person having interest in a public trust or any property found to be trust property, aggrieved by any finding of the Registrar under section 6 may, within six months from the date of the publication of the notice under sub-section (1) of section 7, institute a suit in a civil Court to have such finding set aside or modified."

11. In accordance with the aforesaid section any person having interest in the Public Trust can file a civil suit to set aside the findings or modify the findings of the registrar.

12. The Apex Court in the case of Abdul Karim Khan and Others Vs. Municipal Committee, Raipur has considered the section 8(1) of Act of 1951 and has held as under in regard to the aggrieved person interest :-

"12. It is true, S. 8(1) permits a suit to be filed by a person having interest in the public trust or any property found to be trust property. The interest to which this section refers must be read in the light of S. 5(2) to be the interest of a beneficiary or the interest of a person who claims the right to maintain the trust or any other interest of a similar character. It is not the interest which is adverse to the trust set up by a party who does not claim any relation with the trust at all. That is why we think the finality on which Mr. Sinha''s argument is based cannot avail him against the respondent inasmuch as the respondent was not a party to the proceedings and could not have filed any objections in the said proceedings."

13. As such, the Apex Court has clearly held that the interest of a person could not be adverse to the trust set up by the party.

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14. In the present case, the appellants are tenants. Their interest is to continue their tenancy. Because the Trust has filed eviction proceedings against the appellants and the appellants are contesting the eviction proceedings and have also raised a ground that the Trust has no locus standi to file a suit of eviction because it was not constituted in accordance with law. Hence, the interest of the present appellants is adverse to the interest of the Trust.

15. In such circumstances, applying the ratio of Apex Court in the aforesaid judgment, the appellants could not be said to be the interested persons in accordance with section 8(1) of Act of 1951. Hence, the court below has rightly dismissed the suit filed by the appellants.

16. Consequently, we do not find any merit in this appeal, which is hereby dismissed. No order as to costs.

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