

(2023) 09 RAJ CK 0014
In the Rajasthan High Court
Case No : Civil Writ Petition No. 563 Of 1997

Madan Gopal Through His Lrs & Ors

APPELLANT

Vs

Commissioner, Devasthan Udaipur & Ors

RESPONDENT

Date of Decision : 06-09-2023

Acts Referred:

Constitution Of India, 1950 — Article 226, 227?Rajasthan Public Trust Act, 1959 —
Section 17, 21

Citation : (2023) 09 RAJ CK 0014

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : Arvind Samdariya, L.K. Purohit, Vinit Sanadhya

Final Decision : Dismissed

Judgement

Dr.Pushpendra Singh Bhati, J

1. This writ petition under Articles 226 & 227 of the Constitution of India has been preferred claiming the following reliefs:

"Therefore, it is most respectfully prayed that this writ petition may kindly be allowed and a Writ, order or direction in the nature of Certiorari, Mandamus or Prohibition or in any other appropriate form may kindly be issued quashing the impugned Judgments Annexures 10 and 11 respectively passed by the Respondents No.2 & 1. And any other relief favourable to the petitioners may kindly be granted looking to the facts and circumstances of the case."

2. Brief facts of the case, as placed before this Court by learned counsel for the petitioners, are that one Shankar Lal, Shiv Narain, petitioner-Madan Gopal (since deceased represented through LRs herein) and Amrit Lal had purchased a plot of land from one Sethia Bagtawar Chand and Gulechha Pabudan through a registered sale deed in Samvat Year 1973 (30.11.1916); thereafter, Amrit Lal moved an application on 12.06.1919 for grant of patta in respect of the land in question and the same was issued on 12.07.1920; whereafter, the petitioners

constructed a building on the land in question.

2.1. Subsequently, one Mag Dutta filed an application before the Assistant Commissioner, Devasthan, Jodhpur, stating therein that the property (land in question) is a Public Trust property, to be utilized for charitable purposes, and thus, the petitioners have no right on the property in question. The Assistant Commissioner vide the impugned order dated 22.04.1991, ordered for treating the property in question to be a Public Trust property and also directed for registration thereof accordingly, and for the said purpose, necessary documents were directed to be filed within a period of one month from the date of the said order.

2.2. Aggrieved by the said impugned order dated 22.04.1991, the petitioners preferred an appeal before the Commissioner Devasthan, Udaipur, but the same was dismissed vide the impugned order dated 13.08.1996. Hence, the present petition has been preferred claiming the afore-quoted reliefs.

3. Learned counsel for the petitioners submitted that the tenant Mag Dutta, with a mala fide intention, had filed the aforementioned application for the registration in question, despite the fact that no occasion therefor could have arisen, in the present factual matrix. It was further submitted that the petitioners got the patta of the land in question with an intention to construct Umaid Sarai, and that, the said property was their personal property, and not the property of any Public Trust.

3.1. Learned counsel further submitted that the petitioners had never divested the property in question to any Trust for charitable purposes. It was also submitted that the petitioners and their ancestors constructed a building on the land in question out of their own money and some part of the building in question was given on rent. Thus, the impugned orders are not justified in law.

3.2. Learned counsel also submitted that the petitioners also filed a suit against one tenant-Jairaj and the same was decreed by the learned District Judge, Jodhpur, and therefore, the land in question is the personal property of the petitioners, and not belonged to any Public Trust.

4. On the other hand, learned counsel appearing on behalf of the respondents, while opposing the aforesaid submissions made on behalf of the petitioners, submitted that the property in question deserves to be utilized for charitable purposes and for the benefit of public at large, and for construction of a Sarai known as Umaid Sarai, Rs. 10,000/- had already been allotted, which was also mentioned in the application dated 12.06.1919 of the petitioners, for issuance of patta.

4.1. It was further submitted that the petitioners have constructed some shops and let out the same on rent, and such rent was to be utilized for expenditures of Sarai, meant for charitable purposes.

4.2. It was also submitted that as per the report dated 04.02.1984 of the site

inspection conducted by the Assistant Commissioner, Devasthan Department, Sarai had been constructed for public purposes.

4.3. It was further submitted that if any person was against the registration in question under Section 17 of the Rajasthan Public Trust Act, 1959, then objections could have been filed for cancellation/modification of such registration, by availing the appropriate remedy of instituting a civil suit, as per Section 21 of the Rajasthan Public Trust Act, 1959. Therefore, as per learned counsel, on that count alone, the present petition is not maintainable.

5. Heard learned counsel for the parties as well as perused the record of the case.

6. This Court observes that the petitioners had purchased the land in question through the sale deed of Samvat Year 1973, whereafter, Amrit Lal moved an application on 12.06.1919 for grant of patta and the same was issued on 12.07.1920. Thereafter, the petitioners constructed a building on the land in question. Subsequently, one Mag Dutta filed an application before the Assistant Commissioner Devasthan, Jodhpur for treating the property to be a property of Public Trust and for issuance of certain directions; the said application was allowed vide the impugned order dated 22.04.1991, as mentioned above. The petitioners being aggrieved thereby preferred an appeal before the Commissioner Devasthan, Udaipur, but the same was dismissed vide the impugned order dated 13.08.1996.

7. This Court further observes that as per the rent receipt, Electricity and Water Bills, the property in question is a Dharmasala and entire building structure as well as other things clearly reflects the same. This Court also observes that the Dharmshala on the land in question was constructed in the year 1919-1920.

8. This Court also observes that as per the aforementioned site inspection report dated 04.02.1984, it is clear that after considering all the relevant aspects, it was stated that the Dharmshala was constructed on the property in question for the public and charitable purposes.

9. This Court further observes that the petitioners got the patta in the name of Umaid Sarai for public benefit, and the whole purpose of the petitioners behind obtaining such patta was that the land in question shall be utilized for public and charitable purposes, and for the said purpose, the Dharamshala was constructed over the land in question.

10. This Court also observes that after duly considering and appreciating the material and evidence placed on record, the concurrent findings were recorded vide the impugned orders, which are perfectly justified in law.

11. Thus, in light of the aforesaid observations as well as looking into the factual matrix of the present case, this Court does not find it a fit case so as to grant any relief to the petitioners in the present petition.

12. Consequently, the present petition is dismissed. All pending application

disposed of.