

(1999) 01 AHC CK 0092
In the Allahabad High Court
Case No : C.M.W.P. No. 43403 of 1998

Mohd. Sharif Saifi

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 28-01-1999

Acts Referred:

Constitution of India, 1950 — Article 25, 51A

Citation : (1999) 1 AWC 820

Hon'ble Judges : S.L. Saraf, J; M. Katju, J

Bench : Division Bench

Advocate : Mohd. Sharif Saifi, for the Appellant;

Final Decision : Disposed Of

Judgement

M. Katju and S. L. Saraf, JJ.—Heard the petitioner in person and learned standing counsel. The petitioner has prayed in this petition that he wants to make a mosque on the land in question which is in village Kuri, Tehsil Thakurdwara, district Moradabad. It is alleged in paragraph 4 of the writ petition that the respondent No. 4, the S.H.O. of P.S. Dilari, district. Moradabad has restrained the petitioner from building the mosque in question till permission is obtained from the District Magistrate.

2. A counter-affidavit has been filed by respondent No. 4. In para 7 of the same, it is alleged that there is a controversy regarding title to the land in question, and a suit is pending before the Civil Judge, Thakurdwara.

3. We are not entering into the factual controversy as to who is owner or bhumidhar of the land in question, and this dispute can be decided by the Civil/ Revenue Court. However, we wish to lay down the law in this connection.

4. This is a free and secular country. Subject to public order, morality and health, anybody is entitled under Article 25 of the Constitution to build any house of worship, whether it is mosque, church, temple, etc. on his own land or on any one else's land with the consent of that person. Art. 25(1) of the Constitution

states :

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion."

5. Hence, we make it clear that the petitioner is fully entitled to make a mosque on his own land or on someone else's land with the permission of that person, and if he does so, the authorities will give him full protection, and take strong action against anyone interfering with the petitioner's right. No permission of the D. M. is required for this.

6. However, we would humbly suggest to the petitioner and others concerned that instead of mosques, temples, etc.. the country requires more schools, hospitals, technical institutions, vocational training institutes, etc. for the country's scientific and technological development. Half of the population of the State is illiterate and a large number of young people wish to get technical training in order to get employment, and hence it is absolutely essential that there should be more schools, technical Institutes, vocational training institutes, hospitals, etc. so that the country progresses, and the welfare of the people is attended to. Hence instead of building temples, mosques, etc., we recommend to all people (including the petitioner) to consider our suggestion, and follow it if it appeals to them.

7. In this connection, we may also mention that Article 51A(h) of the Constitution makes it a fundamental duty of all citizens to develop the scientific temper.

8. However, we again make it clear that this is only our humble suggestion and the petitioner is fully entitled to make a mosque on his own land, or on someone else's land with his consent, and the authorities will give him full protection for doing so.

9. With the above observations the petition is finally disposed of.