
(2013) 09 RAJ CK 0017
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2411/2011

Narain Das alias Bhaiya Maharaj and Others

APPELLANT

Vs

Ganga Ram and Others

RESPONDENT

Date of Decision : 30-09-2013

Acts Referred:

Citation : (2014) 1 WLN 634

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vijay Bishnoi, J.—The petitioners have preferred this writ petition against the order dt. 03.01.2011 whereby the learned Civil Judge (Junior Division) Bikaner (hereinafter referred to as "the executing Court") impleaded the petitioners as non-applicants in the place of late Shri Punamdass and allowed the respondents No. 1 to 3 to submit amended execution application. Brief facts of the case are that execution proceedings is pending before the executing Court for execution of decree dt. 13.12.1972 passed in Civil Suit No. 390/1971 by the Munsif Bikaner.

2. The only contention raised by the learned counsel for the petitioners that the learned executing Court without taking into consideration the fact that the respondents No. 1 to 3 were never appointed as trustees of the Raghunathji Temple Trust, Bikaner at any point of time as per the provisions of Rajasthan Public Trust Act 1959 and, therefore, they had no right to get the decree in question executed. It is also contended by learned counsel for the petitioners that the learned trial Court, without examining the fact that whether the respondents No. 1 to 3 are validly appointed trustees, passed the order dt. 03.01.2011 in illegal manner and, therefore, the said order is liable to be quashed and set aside.

3. Per contra, the learned counsel for the respondents has argued that the Assistant Commissioner, Devasthan Department, Bikaner vide order dt.

15.10.1999 has appointed the respondents No. 1 to 3 as trustees of Shri Raghunathji Temple, Bikaner and, therefore, the learned trial Court has not committed any illegality in allowing the respondents No. 1 to 3 for submitting amended execution application while impleading the petitioners as non-applicants in place of late Shri Punamdas.

4. The learned counsel for the respondents has further contended that the learned executing Court has taken into consideration the order dt. 15.10.1999 passed by the Assistant Commissioner, Bikaner and has rightly passed the order dt. 03.01.2011 and, therefore, no interference is called for in this writ petition and the same is liable to be dismissed.

5. Heard learned counsel for the parties and perused the record.

6. The learned executing Court has considered the objections, raised by the petitioners in the execution proceedings, in detail and the main objection of the petitioners of not treating the respondents No. 1 to 3 as trustees of Raghunathji Temple Trust, Bikaner has been rejected while taking into consideration the order dt. 15.10.1999 passed by the Assistant Commissioner, Devasthan Department, Bikaner whereby the Assistant Commissioner has ordered for recording the names of the respondents No. 1 to 3 as trustees of Raghunathji Temple Trust, Bikaner.

7. This Court has also perused the order dt. 15.10.1999 (Annex. 6) passed by the Assistant Commissioner, Devasthan Department, Bikaner whereby the Assistant Commissioner ordered for making necessary entries in the register while appointing the respondents No. 1 to 3 as trustees of Raghunathji Temple Trust, Bikaner and after considering the same, this Court has no doubt that the learned trial has not committed any illegality in allowing the respondents No. 1 to 3 to submit amended execution application.

8. The learned counsel for the petitioner is also unable to disclose that the order dt. 15.10.1999 was challenged by way of appeal or other proceedings by the petitioners or any other person while invoking the provisions of Rajasthan Public Trust Act, 1959.

9. In such circumstances, when the respondents No. 1 to 3 are legally appointed trustees of Raghunathji Temple Trust, Bikaner, they have every right to get the decree in question executed and in such circumstances, the learned trial Court has not committed any illegality in passing the impugned order. In view of above discussions, the writ petition, being devoid of merit, is hereby dismissed.