

(2006) 08 DEL CK 0094

In the Delhi High Court

Case No : C.M. (Main) No"s. 1318-21 of 2006 and CM No"s. 11521-24 of 2006

P.C. Pandey and Others

APPELLANT

Vs

Prachin Shree Shani Dev Welfare Society and Another

RESPONDENT

Date of Decision : 30-08-2006

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2006) 08 DEL CK 0094

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : Jagjit Singh, for the Appellant; Anshu Mahajan, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, J.

CM No. 11522-23/2006

Allowed subject to just exceptions.

CM(M) No. 1318-21/2006 and CM No. 11521/2006 and CM No. 11524/2006

1. The petitioners are aggrieved by the impugned order dated 10.08.2006 passed by the learned Additional District Judge dismissing the appeal of the petitioners against the order of the learned Civil Judge dated 31.07.2006.

2. The respondents-Society filed a suit in respect of the functioning of the Shani Dev Mandir at Polo Road against the petitioners. It was alleged that the petitioners were indulging in financial bungling. On consideration of the pleadings of the parties, the trial court found that none of the parties was claiming ownership rights over the Mandir but the grievance was in respect of the functioning of the Mandir, the utilisation of the chadawa(offertory) and the right of performing puja. The trial court considered it appropriate, on the conspectus of the material before it, to appoint a neutral person in the form of an advocate to act as a receiver and he was to be paid remuneration at 10 per cent of the

total collection of donation but not to be less than Rs. 10,000/- per month.

3. The petitioners aggrieved by the said order filed an appeal and the appellate court has modified the order to the extent that the municipal committee of the area would take care of the temple and manage the affairs. A direction has also been issued to the SHO that no devotee or worshipper faces any difficulty in offering prayers in the temple.

4. The present proceedings have been filed under Article 227 of the Constitution of India and the jurisdiction of this Court is not to act as a court of second appeal at this interlocutory stage. The intervention of this Court would be permissible only if there is a patent error or erroneous exercise of jurisdiction by the courts below. I find no such infirmity.

5. It is unfortunate that two groups of persons are fighting even over a place of worship while none of them claims ownership. In my considered view, the appellate court rightly came to the conclusion that municipal authorities should manage the temple.

6. It was put to the learned Counsel for the parties whether on instructions they are agreeable to some eminent person managing the affairs as receiver, but the parties have not been able to come up with a common name. Learned Counsel for the petitioners in fact submits that the directions contained in the appellate court order are more beneficiary as compared to the directions given in the trial court order.

7. There is no merit in the petition.

8. Dismissed.