

(2001) 11 AHC CK 0069
In the Allahabad High Court
Case No : Second Appeal No.884 of 2001

Ram Chandra Mission, Noida and Another	APPELLANT
Vs	
Parthasarathi Raj Gopalachari and Others	RESPONDENT

Date of Decision : 25-11-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11, 100

Citation : (2001) 11 AHC CK 0069

Hon'ble Judges : B.K.Rathi, J

Final Decision : Dismissed

Judgement

B.K. Rathi, J.—I have heard Sri Vipin Saxena, learned counsel for the appellants and Sri Ajeet Kumar, learned counsel for the respondents.

2. The appellants filed suit No.697 of 1995 against respondents for declaration that the appellant No.2 is spiritual representative of the founder of the Mission Sri Ram Chandra Ji Maharaj alias Babu Ji, that therefore, he is President of the Mission, appellant No.1 and respondent No.1 is not the President of the Mission, and for injunction to restrain the respondent No.1 from interfering in the working and managing of Mission, plaintiffappellant No.1 by appellant No.2. The respondent No.1 moved an application under Order VII Rule 11 CPC for rejecting the plaint on the ground that it does not disclose any cause of action and that the suit is also barred by time. The trial court heard the matter and allowed the application under Order 7 Rule 11 CPC and dismissed the suit on 31.5.1999. Aggrieved by it, appellants preferred Civil Appeal No.219 of 1999 which has also been dismissed on 11.1.2001 and it has been held that the plaint does not disclose any cause of action and also that the suit is barred by time. The appellants have therefore, preferred this second appeal.

3. A preliminary objection has been raised by learned counsel for the respondents that in accordance with the amendment in Section 100 CPC a second appeal can be admitted if it involves substantial question of law for decision; that clause (3) of Section 100 CPC provides that the memorandum of

appeal shall state the substantial question of law involved in the appeal. It has been contended by Sri Ajeet Kumar that the memo of appeal shows that no substantial question of law has been stated. It is further argued that the learned counsel for the appellants has argued the matter on merits and challenged the correctness of the findings of the courts below, but has not alleged as to what substantial question of law is involved for decision in this appeal. It is therefore, argued that the appeal cannot be admitted. However, after the closure of the arguments, learned counsel for the appellants gave in writing certain substantial questions of law, but it does not fulfil the requirement of Section 100(3) of CPC.

4. I have also gone through them and find that they are nothing but the repetition of the grounds mentioned in the memo of appeal. No substantial questions of law could be pointed out during arguments. Therefore, this second appeal cannot be admitted.

5. Apart from this, on brief examination of the allegations I find that the matter was considered in great detail by both the courts below and there is no reason to disagree with their findings. Admittedly Ram Chandra Mission was established by Ram Chandra Ji Maharaj alias Babu Ji and he remained President of the mission till his death on 19.4.1983. The appellant No.2 is admittedly the son of Sri Ram Chandra Ji Maharaj alias Babu Ji. It is contended that on 16.4.1982 he declared the appellant no.2 as his spiritual successor and therefore, the appellant No.2 is the President of the mission and is in actual control over it. It is contended that the appellant filed a testamentary petition No.1 of 1994 which was rejected on the ground that he should file a regular suit. This order was also maintained by this Court on 16.10.1995. Thereafter, the suit was filed. He therefore, mentioned in the plaint that the cause of action arose on 16.10.1995 when the order was passed by this Court that the suit for declaration may be filed. The suit was filed immediately thereafter. It has been argued that cause of action has not been defined in the Civil Procedure Code. However, it has been defined in the various decisions where it has been held that the cause of action consists of bundle of facts which is essential for the plaintiff to allege in order to get success in the suit; that bundles of fact constitutes a cause of action and for that the entire plaint has to be looked into. That there is allegation in the plaint that before the death of Sri Ram Chandra Ji Maharaj alias Babu Ji the appellant No.2 was declared his spiritual successor by Will dated 16.4.1982. The courts below held that it has been mentioned in the plaint that the appellant No.2 became President of the mission, but he has not disclosed as to when he became the President. It has also been not disclosed whether there is any resolution of managing committee appointing him or recognizing him as President of mission; that it has also not been disclosed that the appellant No.2 ever worked as President or any work was ever discharged by him as President of mission.

6. Another suit was also filed regarding the present dispute. In First Appeal No.439 of 1984 this court on 31.7.1984 passed the following order:

?During the pendency of this appeal, the order dated 9.5.1983 passed by Civil

Judge, Shahjahanpur shall remain stayed. Sri Parthsarthi, appellant No.1 will act as President subject to the condition that he will not be allowed to alienate any property moveable or immovable without approval of the working committee?..?

By virtue of this order the respondent No.1 is working as President of the mission since 31.7.1984 which cannot be doubted. This suit was filed in the year 1995 and is clearly barred by time.

7. The appellants cannot have cause of action by the observation of this Court that the appellants can get relief in a suit for declaration. In the plaint it has not been disclosed as to when the cause of action for the present suit actually arose and in what manner.

8. I accordingly find that both the courts below have rightly held that the plaint does not disclose any cause of action and is also barred by time. No substantial questions of law arises for decision in this appeal. The appeal is therefore, dismissed.

(Appeal dismissed)