

(2000) 07 AHC CK 0009
In the Allahabad High Court
Case No : C.M.W.P. No. 29147

Ram Devi (Decd.) through L.Rs. and another	APPELLANT
Vs	
District Magistrate, Mathura and others	RESPONDENT

Date of Decision : 06-07-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 226

Citation : (2000) 3 AWC 2570

Hon'ble Judges : S.K. Jain, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : Anita Tripathi, for the Appellant; S.C. and B.D. Madhyan, for the Respondent

Judgement

Binod Kumar Roy and S. K. Jain, JJ.—The petitioners have come up with two prayers (i) to command respondent Nos. 4 to 12 not to install the statue of Dr. B. R. Ambedkar on their chaks (the land which was allotted to them in the consolidation proceedings) and (ii) to command respondent Nos. 1 to 3 to take suitable action in accordance with law against the aforementioned respondents who forcibly want to install the statue on their lands.

2. The petitioners assert, inter alia, that plot No. 230 is their bhumidhari of which no portion was taken out for any public purpose ; on their said plot their boring is situated, which fact was taken into account by the consolidation authorities while allotting chaks to them ; respondent Nos. 4 to 12, who are connected with the local Bahujan Samaj Party, Illegally and with a mala fide intention want to Install the statue of Dr. B. R. Ambedkar on their lands ; the petitioners met respondent No. 3. The Station House Officer, Police Station Vrindavan, District Mathura who. however, expressed his helplessness saying that respondent Nos. 4 to 12 belong to a political party and thereafter they moved respondent No. 2, the Senior Superintendent of Police, district Mathura and also sent copy of their application filed before respondent No. 2 to respondent No. 1. the District Magistrate.

Mathura requesting them to restrain respondent Nos. 4 to 12 from installing the statue in question but as despite repeated requests no action has been taken and hence this writ petition.

3. No counter has been filed by respondent Nos. 1 to 3.

4. Respondent Nos. 4 to 12 In their counter-affidavit, the original of which, however, has not been placed by the office on our record, but a copy thereof having been shown to us by both sides, assert that they sought permission from the District Magistrate for installing the statue of Dr. B. R. Ambedkar on their own lands bearing plot No. 260 and thus the petitioners are not affected in any manner.

5. The petitioners have filed a rejoinder denying the stand taken in the counter-affidavit aforesaid and reiterated their allegations.

The submissions :

6. Learned counsel for the petitioners contended that the defence taken by respondent Nos. 4 to 12 that they are installing the statue of Dr. B. R. Ambedkar on their own land Is incorrect whereas on the other hand Sri Pramod Kumar Tewari, learned counsel appearing on behalf of respondent Nos. 4 to 12 contended that statue In question was not intended to be installed on any portion of the land which belongs to the petitioners but on their own lands.

Our findings :

7. No one has got any authority to erect any statue on some one else's land. According to the petitioners, the statue is sought to be installed on their lands whereas respondent Nos. 4 to 12 are denying this. The real intention of respondent Nos. 4 to 12 may be to install the statue in the lands of the petitioners by claiming it to be theirs. The question however, necessarily being of fact cannot be appropriately adjudicated under Article 226 of the Constitution of India but by any civil court u/s 9 of the CPC or before any other appropriate forum having such Jurisdiction to grant Injunction though it was and will be duty of the police administration to take appropriate action under the Police Act, I.P.C. and Cr. P.C. and of the Civil Administration under the Cr. P.C. to protect citizens whose property is sought to be squandered or misappropriated by any one by taking law in his own hands and/or by resorting to apprehension of breach of the peace.

8. Consequently, we refuse to grant relief in relation to prayer No. 1 but in the larger interest of justice direct the District Magistrate and the Higher Police Authorities of the District Mathura to look into the matter and stop the mischief if it is attempted to be done by respondent Nos. 4 to 12.

9. With these observations and directions, this writ petition is disposed of but having regard to the peculiar facts and circumstances, we make no order as to cost.

10. The office is directed to hand over a copy of this order to Smt. Sarita Singh, learned standing counsel for its intimation to the District Authorities of Mathura for compliance of the directions made as above.