
(2018) 09 UK CK 0030

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2708 of 2018

Ranpat Singh Rana & others

APPELLANT

Vs

Sh. Ashok Pal Sen & others

RESPONDENT

Date of Decision : 07-09-2018

Acts Referred:

Code of Civil Procedure, 1908 — Section 16, 17, 18, 19, 20, 92
Constitution of India, 1950 — Article 226

Citation : (2018) 09 UK CK 0030

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Manohar Lal Sharma, B.L. Soni, Suresh K. Acharya, Aman Parth Sharma, K.N. Joshi

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.

This writ petition has been filed by the petitioners under Article 226 of the Constitution of India with the following prayers:-

I. That your Lordship may be pleased to issue a writ of mandamus directing the respondents to hand over the possession of the Mandi Haridwar

Dharamshala with all the belonging such as all furniture, articles, utensils, almirah and other articles, record and register kept for entering the pilgrims

in favour of the petitioner no.1 who represent all sections of Hindu Community of Mandi district.

II. That the registered body headed by petitioner no.1 be declared as legal and constitutional body as a custodian of Mandi Haridwar Dharamshala for

the management and maintenance on behalf of general public of Hindu Community of Mandi District.

III. That, if it deems fit, District Magistrate may kindly be directed to give police aid for peaceful and amicable possession of Mandi Haridwar

Dharamshala in favour of the petitioners.

IV. That petitioner no.1 be permitted thereafter to effect any addition, alteration, modification and improvement on the Mandi Haridwar Dharamshala

for the better use and occupation of the pilgrims and the yatris. 2

V. That the direction to realize water, electricity charges of Dharamshala from petitioner no.1 from various departments of health, sanitary, electricity

and irrigation be kindly issued for the proper maintenance of Dharamshala.

VI. That any other relief to which your Lordships think proper may also be granted in view of the facts and circumstances of the case.â??

2. The facts of the matter, however, take the case back to almost 40 years. It appears that certain persons belonging to district Mandi in Himachal

Pradesh who may be the predecessors in interest of the petitioners, had filed a suit before the High Court of Himachal Pradesh under Section 92 of

Code of Civil Procedure. The property was admittedly a trust property. The property which was a â??Dharamshalaâ? known as â??Mandi

Dharamshalaâ? was physically situated in Haridwar, in the erstwhile State of Uttar Pradesh at the relevant time (now admittedly it is in Uttarakhand).

The suit was dismissed by the Court vide order dated 04.09.1985 on the ground of territorial jurisdiction and in the said order the Court had made a

detail observation relating to Section 92 of Code of Civil Procedure as well as under Sections 16 to 20 of Code of Civil Procedure regarding

jurisdiction and has thereafter it came to a conclusion that the provisions of Section 92 of Code of Civil Procedure override the general provisions

contained in Section 16 to 20 of the Code of Civil Procedure and as the subject matter of the trust property is in Haridwar which is outside the

jurisdiction of the Court, the suit was dismissed on ground of territorial jurisdiction.

3. Against this order, the petitioners filed an appeal before a Division Bench of High Court of Himachal Pradesh which was also dismissed vide order

dated 3 12.07.1995 and all the interim orders passed in the matter were vacated.

4. Now after a period of more than 23 years, the petitioners have filed the present writ petition before this Court seeking the relief as referred above.

The learned Senior Counsel for the petitioners Sri Manohar Lal Sharma relies

upon certain observations in the interim orders of Himachal Pradesh

High Court. All these orders, however, stand vacated and merged in the final order dated 12.07.1995, hence, in my opinion, no reliance can be placed on them.

5. In any case, the relief as sought by the petitioners cannot be granted at this stage, as the petitioners have approached this Court highly belatedly. In

any case the remedy, if at all, is not before this Court in a writ petition, but only under Section 92 of Code of Civil Procedure. The writ petition, all the

same, fails and it is hereby dismissed in limine, on grounds of laches. No order as to cost.

6. Let a certified copy of this order be supplied today itself on payment of usual charges.