
(2012) 08 RAJ CK 0073
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9495 of 2011

Sahab Lal and Others

APPELLANT

Vs

Pujari-Gopidas and Others

RESPONDENT

Date of Decision : 17-08-2012

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2012) 08 RAJ CK 0073

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : NK Maloo along with Mr. VK Tamolia, for the Appellant;

Final Decision : Dismissed

Judgement

Hon"ble Ms. Justice Bela M. Trivedi

1. This petition is directed against the order dated 16.3.2011 passed by the Addl. District Judge No.2, Bundi (hereinafter referred as the "appellate court") in CMA No.46 of 2010, whereby the appellate court has dismissed the appeal, filed by petitioners-defendants against the order dated 10.8.2010 passed by the Civil Judge (SD),Bundi (hereinafter referred as the "trial court") in the TI Application No. 9/2009, filed by the respondent No.1- plaintiff. The present respondent No.1-plaintiff has filed the suit before the trial court against the petitioners-defendants seeking declaration and permanent injunction for restraining the defendants from interfering with the Seva Pooja being done by the plaintiff in the temple of Murti mandir Bhagwan Chaturbhuj Ji maharaj, situated at village makhida, Tehsil-indergarh, District-Bundi and from removing him as Pujari. The respondent-plaintiff al so had filed an application seeking temporary injunction of the similar nature pending the suit. The said IT application was resisted by the petitioners-defendants by filing the reply. The said I.T. application was allowed by the trial court vide the order dated 10.8.2010, which was challenged before the appellate court by the petitioners by filing the appeal being No. 46 of 2010. The said appeal has been dismissed by the appellate court vide the impugned order,

against which, the present petition has been filed by the petitioners.

2. It has been vehemently submitted by learned counsel sr. counsel Mr. NK maloo for the petitioners that the petitioners who are the villagers of village makhi da were managing the affairs of the temple and that the respondent-plaintiff was removed as Pujari by the petitioners because of his mis-conduct. He also submitted that the respondent-plaintiff is not doing any Seva Puja in the temple since last five years and was also not working as Pujari on the date of filing of the suit. Mr. Maloo further submitted that both the courts below did not appreciate the documents produced by the petitioners to show that the petitioners were auctioning the land of the temple for cultivation every year and were accordingly managing the affairs and expenses of the temple from the amount received in auction. Mr. Maloo has relied upon the decisions of the Apex Court in the case of Kacha Kanti Seva samity and another vs sri Kacha Kanti Seva Samity and Another Vs. Shri Kacha Kanti Devi and Others, and in the case of sree Kalimata Thakurani of Kalighat vs Jibandhan Mukherjee and others AIR 1992 SC 1329, to submit that Pujari could be removed or dismissed and that the petitioners could be defacto managers to manage the affairs of the temple.

3. Having considered the submissions of learned counsel Mr. Maloo for the petitioners and the orders passed by the courts below, it appears that it is not disputed that earlier the respondent-plaintiff had worked as Pujari for about 20 years and prior to him, his father Kalyandas was the Pujari of the said temple, however according to the petitioners, the respondent-plaintiff was removed as Pujari since last five years as decided by the villagers because of his mis-conduct and the respondent-plaintiff was not working as Pujari on the date of filing of the suit. The petitioners appear to have produced some copies of minutes of meetings held by the petitioners and others from Meena Community, from which it transpires that the land belonging to the temple was being auctioned for cultivation and that one Pt. Shri Gauri Shankar and thereafter one Shri Dhanraj Sharma were appointed as Pujari in the years of 2008-09. However, this court fails to understand as to how the petitioners who are merely the villagers could have auctioned the land of temple for cultivation, or could have decided as to who would be the Pujari of the temple. From copies of documents which appear to be the part of revenue record, it appears that initially the father of the respondent-plaintiff, and thereafter the respondent himself was doing Seva Puja as the Pujari of the temple for number of years.

4. In any case, it would be a matter of evidence to be led by both the parties and to be appreciated by the trial court at the time of trial as to whether the respondent-plaintiff had any right to continue as the Pujari of the temple or not and whether the petitioners-defendants had any right to remove the respondent as the Pujari of the temple or not. There is also no clarity about the ownership of the temple in question as to whether it belongs to the Government or any private or public trust. There being number of triable issues involved in the suit. it would not be proper for this court to interfere with the concurrent findings of facts

recorded by both the courts below.. Even otherwise, this court exercising the jurisdiction under Article 227 of the Constitution of India, would be loath in interfering with the concurrent findings of the facts recorded by the courts below. There cannot be any disagreement with the ratio of the judgment of Apex Court cited by the learned counsel for the petitioners, however, they are not applicable to the facts of the present case and therefore not required to be discussed in detail. In that view of the matter, there being no merit in the petition, the same deserves to be dismissed and is dismissed accordingly. Considering the facts and circumstances of the case, the trial of the suit is directed to be expedited.