

(2008) 07 MP CK 0087
In the Madhya Pradesh High Court
Case No : W.A. No. 469 of 2008

Santosh Kumar Gupta and others	Vs	APPELLANT
Nagar Kesharwani Vaishya Sabha, Jabalpur and others		RESPONDENT

Date of Decision : 30-07-2008

Acts Referred:

Madhya Pradesh Public Trust Act, 1951 — Section 26

Citation : (2008) 3 MPLJ 310

Hon'ble Judges : Ramesh Surajmal Garg, J; R.K. Gupta, J

Bench : Division Bench

Advocate : Sanjay Sanyal, for the Appellant; Ramesh Shrivastava for Respondent Nos. 1, 2 and 3 and Jai Deep, for the Respondent

Judgement

Shri Sanjay Sanyal, learned counsel for the appellant.

Shri Ramesh Shrivastava, learned counsel for respondents No. 1, 2 and 3.

Shri Jai Deep, learned counsel for respondent No. 4.

Learned counsel for the appellant submitted that on a reference made by Registrar u/s 26 of the M.P. Public Trusts Act to the District Judge, the learned District Judge vide his order dated 16-8-2007 granted interim charge of the property to the respondents No. 2 and 3 and refused to recall the order and committed an illegality in rejecting the review application vide order dated 3-9-2007.

During course of the arguments it was submitted that respondents No. 2 and 3 are caretakers of the property under the arrangement made by the District Judge but they are exercising their powers as owners of the property and have started demolishing the property in dispute.

It is also submitted that if ultimately they are removed and in the meanwhile property is damaged/demolished or third party rights are created, the petitioners so also the trust would suffer irreparably. It is submitted by him that part of the

property has already been demolished by the respondents No. 2 and 3.

Shri Shrivastava, learned counsel for respondents No. 1, 2 and 3 on the other hand submitted that the respondents for upkeep and betterment of the property and for its development had demolished a part of it but if this Court feels that they are not entitled to proceed with any demolition or construction, the said respondents No. 2 and 3 shall not do any such act either personally or through any agency.

After hearing learned counsel for the parties, we are unable to hold that the learned Single Judge was unjustified in dismissing the writ petition but in view of the submissions made by Shri Shrivastava, learned counsel for respondents No. 1, 2 and 3 it is directed that respondents No. 2 and 3 namely, Ravi Kumar Gupta and Shankarlal Kesharwani shall not demolish any property belonging to respondent No. 1 trust nor shall they raise any construction in the property which belongs to trust which is represented through Ram Kumar Kesharwani. The respondents are also restrained from creating any third party rights in the property. The respondents No. 1 to 3 are restrained from demolishing any property, raising any construction or creating any third party rights in the properties belonging to the trust.

Looking to the nature of the dispute and as the trust properties are involved and the dispute is also in relation to the management of "Rambha Pasarn Radha Krishna Mandir Public Trust" we direct the learned District Judge to decide the matter finally within a period of 8 months from the date of appearance of the parties.

The parties shall appear before the District Judge on 25-8-2008 with a copy of this order enabling the District Judge to know as to what he is required to do.

The appeal is accordingly disposed of.