
(2008) 04 MP CK 0080

In the Madhya Pradesh High Court

Case No : Writ Petition No. 13814 of 2007

Santosh Kumar Gupta and others

APPELLANT

Vs

Nagar Keshrwani Vaishya Sabha and others

RESPONDENT

Date of Decision : 10-04-2008

Acts Referred:

Constitution of India, 1950 — Article 227

Madhya Pradesh Public Trust Act, 1951 — Section 26

Citation : (2008) 3 MPLJ 222

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : Atul Anand Awasthy, for the Appellant; Ramesh Shrivastava, for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Menon, J.

Challenge in this petition under Article 227 of the Constitution is made to the order dated 16-8-2007 passed by the District Judge, Jabalpur allowing an interlocutory application filed by the respondents with regard to granting them charge of the trust in question so also the order dated 3-9-2007 rejecting an application filed for review of this order.

The dispute in the present lis pertains to management of "Rambha Pasaran Radha Krishna Mandir Public Trust" and filling up the vacancy of trustees. On a dispute with regard to the said trust being raised, the Registrar Public Trust has referred the matter u/s 26 of the M.P. Public Trust Act to the District Judge, Jabalpur. The dispute is pending before the District Judge, Jabalpur. Respondents no. 2 and 3 namely, Ravi Kumar Gupta and Shankarlal Kesharwani submitted an application seeking charge of the trust in question. This application was allowed and, therefore challenge is made to the aforesaid interlocutory order by the petitioner.

Shri Atul Anand Awasthy, learned counsel for petitioners by taking me through the documents and other material available on record tried to emphasise that granting charge to the respondents when there is serious dispute, at this stage, learned Court below has committed grave error. It is further emphasized by Shri Atul Anand Awasthy, learned counsel for petitioners that before recording of the evidence on the disputed question as to who are the actual persons entitled to manage the trust the question of granting charge could not be decided and in doing so, it is argued that the learned Court below has committed grave error which warrants interference.

Taking me through a Will and various other documents available on record and emphasising on the intention of the person who created the trust, Shri Atul Anand Awasthy, learned counsel for petitioners argues that the order passed by the learned District Judge is unsustainable.

Refuting the aforesaid contention Shri Ramesh Shrivastava learned counsel for the respondents points out that as all the original trustees have expired, as per the registered trust deed, members to manage the trust are now required to be appointed by the Kesharawani Samaj, Jabalpur through election and as respondents No. 2 and 3 are found to be elected by Kesharwani Samaj, learned District Judge, Jabalpur has not committed any error warranting interference. Accordingly, he prays for dismissal of this petition.

I have heard learned counsel for the parties and perused the record.

From the record it is clear that the original trustees who had created the trust have expired and none of them are living today. The trust has been registered vide order dated 10-3-1955 on 10-3-1955 on the basis of an application submitted on 31-8-1953 and a perusal of the said application, available on record, indicates that mode of succession as per Will executed by Late Rambha Pasaran, is by election the meeting by members of the Kesharwani Samaj. Admittedly, none of the persons named as trustees in the original documents are living today. Petitioners claim their rights to the trust on the basis of right accruing to them through late Kishan Lal Gupta who is one of the successors of the trust. However, respondents No. 2 and 3 are found to be elected by the Kesharwani Samaj. That being so, District Judge while considering the question of management of the trust, as an interim measure, has placed reliance on the order dated 29-12-2000 passed by the Registrar Trust Annexure P/8 to the petition, wherein it is recorded that names of Ravi Kumar Gupta and Shankerlal Kesharawani have been approved in the election by Kesharwani Samaj, whereas names of the present petitioners are only proposed by certain persons who are not even trustees. This fact which is relied upon by the learned District Judge is recorded in the order Annexure P/8 passed by the Registrar Trust and also, finds confirmation from the proceeding held before the Registrar Trust and the order passed by him on 11 September 2002 Annexure R/1-4. In this order the Registrar Trust has clearly indicated that the name of Ravi Kumar Gupta and Shakerlal Kesharwani are entered in the registered document as trustees

whereas name of Santosh Kumar Gupta is not entered in this order. Petitioner Santosh Kumar Gupta is found to have been unauthorisedly taken over the management of the trust. In that view of the matter, the order passed by the learned District Judge being inconformity with the material available on record and this being only a prima facie consideration made for making interim arrangement for management of the trust. This Court does not see any reason to interfere with the same. The learned District Judge having passed the order impugned on due consideration of the material available on record and the same being reasonable, does not warrant any interference in these proceedings. Accordingly, finding no case is made out for interference, the petition stands dismissed.

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