

(2009) 01 AHC CK 0043
In the Allahabad High Court

Shri Jai Durga Devi Birajman Mandir and Another	APPELLANT
Vs	
Commissioner, Bareilly Division and Another	RESPONDENT

Date of Decision : 09-01-2009

Acts Referred:

Societies Registration Act, 1860 — Section 1, 20

Citation : (2009) 2 AWC 1701

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.U. Khan, J.—At the time of hearing, no one appeared on behalf of respondent No. 2, the only contesting respondent, hence only the arguments of learned Counsel for the petitioner were heard .

2. Petitioner No. 1 is Shri Jai Durga Devi Birajman Mandir Devi Than, Mohalla Gayaspur, Town Bisalpur, District Pilibhit, and petitioner No. 2, Har Govind Dubey (H.G. Dubey) claims to be its Sarvarakar/Manager. According to the petitioner No. 2, he purchased the land and established the Mandir in question on the said land and he is himself its Sarvarakar? Manager.

3. Respondent No. 2, Dal Chand got a society registered under Societies Registration Act on 7.11.1985. Registration certificate was granted by Assistant Registrar, Societies, Firms and Chits, Barielly Bearing No. 1200 of 1986 by the name of Sidhdhi Sri Durga Mandir Gayaspur Bisalpur, District Pilibhit with respondent No. 2 as its manager. Petitioner No. 2 filed application for cancellation of the said certificate on 5.7.1986 u/s 12D (a) and (c) of Societies Registration Act as amended by U.P. Assistant Registrar through order dated 26.10.1987 cancelled the registration by holding that registration had been obtained by concealing the facts and playing fraud.

4. Against the said order, respondent No. 2 filed appeal before respondent No. 1, the Commissioner who allowed the appeal through order dated 3.5.1988 and

remanded the matter to Assistant Registrar for reconsideration. The said remand order has been challenged through this writ petition.

5. The Assistant Registrar before deciding the matter through order dated 26.10.1987 had called for a report from S.D.M. also regarding valid right of the person/society over the Mandir in question. Copies of sale deeds were filed by petitioner No. 2 before the Assistant Registrar. Copy of khasra was also filed regarding possession of petitioner No. 2. A certificate issued by Tehsildar to that effect was also filed. Similarly certificate issued by Gram Pradhan to that effect was also filed. Some documents by and on behalf of Society were also filed by its Secretary Virendra Kumar Saxena. Petitioner No. 2 also filed receipt of payment of house tax. Ultimately, the Assistant Registrar held that Mandir was constructed/installed over the land, which belonged to petitioner No. 2.

6. The Commissioner remanded the matter for consideration of the following points:

1. To ascertain the present position of the land over which temple is situated, whether it is in possession of some particular person and is being used as public religious place and for the said purpose revenue records and other evidence should be looked into .

2. It must be ascertained as to how much time has passed since establishment/ installation of the temple and what is the status of temple and mela (fair), which is held over the adjoining land.

3. What are the aims, objects and purposes of the Association formed by Dal Chand respondent No. 2 and what is the nature of its membership?

4. What is the relation of Pt. Har Govind Das with the temple and adjoining land?

7. The points on which matter was remanded had already been decided by Assistant Registrar in favour of the petitioner and against the respondent No. 2 and the Society. The learned Commissioner did not reverse the said findings. Accordingly, remand for deciding those questions again was not permissible.

8. Memorandum of Association, which must have been filed before the Assistant Registrar for obtaining registration of the society, has not been annexed alongwith the writ petition. However, from the perusal of the two judgments (of Assistant Registrar and of Commissioner), it is quite clear that the Society was formed only and only for religious purposes. By virtue of Sections 1 and 20 of Societies Registration Act, a Society may be formed for any literary, scientific or charitable purpose or the purposes mentioned u/s 20. For purely religious purposes, a Society cannot be formed.

9. Accordingly, apart from the reasons given by Assistant Registrar registration of the Society was liable to be cancelled on the ground that the purpose for which Society was formed is not enumerated under Societies Registration Act for formation of Societies under the said Act.

10. Accordingly, it is not at all necessary to maintain the remand order. Even if the points required to be decided by Assistant Registrar through remand order are decided in favour of respondent No. 2, Registration will have to be cancelled on the ground that the sole purpose of the Society was/is religious, having no charitable ingredient let alone dominant ingredient. Accordingly, writ petition is allowed. Impugned order of remand passed by Commissioner is set aside. Order of cancellation of registration passed by Assistant Registrar is affirmed for the reasons mentioned therein and for additional reason as mentioned in the body of this judgment, i.e., no Society can be registered under Societies Registration Act, the sole purpose of which is religious, i.e., managing a temple.