

(2014) 05 MP CK 0114
In the Madhya Pradesh High Court
Case No : S.A. No. 503/2010

Shri Vijay Kumar

APPELLANT

Vs

Shri Gopal Mandir Registered Public Trust Guna

RESPONDENT

Date of Decision : 12-05-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100
Madhya Pradesh/Chhattisgarh Accommodation Control Act, 1961 — Section 12, 3(2)
Transfer of Property Act, 1882 — Section 106

Citation : (2014) 05 MP CK 0114

Hon'ble Judges : Rohit Arya, J

Bench : Single Bench

Advocate : Harish Dixit, Advocate for the Appellant; Ravi Gupta, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Rohit Arya, J.—Heard on the question of admission.

2. This instant appeal by appellant/defendant u/s 100 of C.P.C. is directed against the concurring judgment and decree dated 22/07/2010 passed by Second Additional District Judge, Guna, District Guna (M.P.) in Civil Appeal No. 57-A/2009; confirming the judgment and decree dated 29/01/2009 passed by First Civil Judge, Class-II, Guna in Civil Suit No. 65-A/2008. By the aforesaid judgment, the plaintiffs' suit for eviction has been decreed as plaintiff was found to be entitled to seek eviction of appellant/defendant u/s 106 of Transfer of Property Act. The preliminary question raised by the appellant to the effect that respondent/plaintiff is not covered u/s 3(2) of the M.P. Accommodation Control Act and is not exempted and therefore unless the ground of evidence as contemplated u/s 12 of the M.P. Accommodation Control Act are proved, no decree for eviction could be granted.

3. From the record, it is well explicit that respondent/plaintiff is a registered public trust and tenancy has been terminated by service of notice u/s 106 of the

Transfer of Property Act, accordingly the suit has been filed for evicting the appellant/defendant from the suit premise.

4. Having perused the bye laws of the trust Ex. P/4, it is evident that the plaintiff trust is a religious trust and is engaged in various religious and social activities for welfare of the society, therefore, in the opinion of this Court, plaintiff/respondent is covered by the gazette notification dated 7/9/1989.

5. However, the only contention as advanced is to the effect that there is no sufficient evidence to demonstrate that plaintiff's income is being utilized for religious and charitable purposes of the trust. This issue has been exhaustively dealt with by the Division Bench of this court in M.A. No. 762/2012 (Scindia Devasthan Registered Charitable Trust Vs. Praveen Kumar Nigam and Ors., decided on 5/7/2013) and it has been held that subsequent to notification dated 7/9/1989 as upheld by the Hon. Apex Court, Public Trust is not under obligation to plead and prove that its entire income received is utilized for the object and purpose of such public trust/institution.

6. In view of the aforesaid, this contention as merits and is hereby rejected. Both the Courts below have concurrently recorded findings of facts. The entire gamut of matter is in the realm of facts. The findings recorded by both the Courts below are impregnable pure findings of facts which in the opinion of this Court do not warrant any interference u/s 100 of CPC. No question of law, much less substantial question of law arises in this appeal. Appeal is therefore, dismissed.