
(1897) 03 AHC CK 0005
In the Allahabad High Court

Thakur Raghunathji Maharaj

APPELLANT

Vs

Shah Lal Chand

RESPONDENT

Date of Decision : 11-03-1897

Acts Referred:

Citation : (1897) ILR (All) 330

Hon'ble Judges : John Edge, J; Blair, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

John Edge, Kt., C.J. and Blair, J.—This suit, which relates to property alleged to belong to a temple, was brought in the name of the idol of the temple—"Thakur Raghunathji Maharaj, seated in the temple at Ramghat, Pargana Anupshahr in the Bulandshahr district, through Saligram, son of Raghunath, Manager and Superintendent of the temple." The Lower Appellate Court dismissed the suit upon two grounds--(1) that an idol cannot, be a plaintiff in a suit under the Code of Civil Procedure, and (2) that Section 539 of that Code applied to this case, and the requirements of that section had not been complied with.

2. We do not see how Section 539 applies in this case at all. In our opinion the Code of Civil Procedure, which requires that there must be a plaintiff to a suit, does not contemplate an idol being made plaintiff. Difficulties might arise in enforcing the process of the Court if an idol or a god of a temple were accepted as a plaintiff in a suit.

3. We are willing to allow an amendment to be made, which will be, of course, without prejudice to any rights which may have been acquired by limitation, or as to any question which may arise as to the right to sue of the person who may be substituted as plaintiff by way of amendment. We only allow the amendment conditionally, the condition being that within four months from this date the costs already incurred by the defendant in this suit be paid to him, including the costs of this appeal. When these costs have been paid to the defendant, or into Court

to his credit, we permit an amendment to be made making Saligram, son of Raghunath, plaintiff in the suit. We do not decide in allowing the amendment that he is the proper plaintiff or that he has any right to sue. If the costs of the defendant up to the present time be not paid within the time limited, the appeal in this Court will stand dismissed with costs. If these costs are paid within the time limited, the amendment may be made within a fortnight from the payment of the costs, and in that case the decrees of the Courts below will be set aside and the case will be remanded to the Court of First Instance for trial on the merits and on any issues which may arise owing to the amendment.