
(2010) 02 RAJ CK 0057
In the Rajasthan High Court

Varda Ram and Another

APPELLANT

Vs

Uma Ram and Others

RESPONDENT

Date of Decision : 24-02-2010

Acts Referred:

Rajasthan Public Trusts Act, 1959 — Section 38

Citation : (2010) 02 RAJ CK 0057

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Judgement

Vineet Kothari, J.—From the averments in the CMA and after hearing learned Counsels at some length, it appears that there are rival claims for the management of registered public trust known as Shri Gautam Rishi Trust Meen aSamaj Gyarah Pargana, Sirohi, Pali and Jalor. The said public trust is registered and its registration number is 03/07/Sirohi.

2. The appellants before this Court Varda Ram and Maga Ram claimed to have been elected as President and Treasurer of the said Trust in the election held on 23.2.2009 whereas the respondent submitted that no election was held on 23.2.2009 but due and proper elections were held on 15.6.2009 and 16.6.2009 and the respondents were elected as office bearers of the said public trust.

3. In the suit filed by the present appellants an application for temporary injunction was also filed which has come to be rejected by the learned District Judge, Sirohi by the impugned order dated 19.2.2010.

4. The Assistant Commissioner, Devasthan Department, Jodhpur was also approached in the matter u/s 23 of the Act wherein the learned Assistant Commissioner also passed certain directions for constitution of the Committees of the respondents and present appellant Varda Ram and one Sona Ram were also directed to be included in the Committee for framing the new Constitution of the said trust.

5. From the facts, it appears that there are rival claims between the two groups

in the suit for management of the said public trust of Meena community.

6. In the opinion of this Court, there are adequate provisions in the Rajasthan Public Trust Act, 1959 to deal with such situation where the rival claims of the parties for management of public trust can be decided by the learned Assistant Commissioner u/s 38 of the Act and further the Court can be approached through the learned Assistant Commissioner of Devasthan Department as provided u/s 38 of the Act. The further provisions in this regard are enshrined u/s 39 and 40 of the Act. Section 38 of the Act reads as under:

38. Application for directions.- (1) If the Assistant Commissioner, on the application of any person having interest in a public trust or otherwise is satisfied after making such inquiry as he thinks necessary that-

- (a) the original object of the public trust has failed;
- (b) the trust property is not being properly managed or administered; or
- (c) the directions of the court is necessary for the administration of the public trust;

he may, after giving the working trustee an opportunity of being heard, direct such working trustee or any other trustee or person having interest, in the trust to apply to the court for directions within such time not exceeding thirty day as may be specified by the Assistant Commissioner.

(2) If the working trustee or any other trustee or person having interest in the trust so directed fails to make an application as required, or if there is no trustee of the public trust, or if, for any other reason, the Assistant Commissioner reconsiders it expedient to do so , he shall himself make an application to the Court.

7. Therefore, while keeping the said suit pending, the rival claimant groups present before this Court are relegated before the learned Assistant Commissioner, Devasthan Department, Jodhpur and the order already passed by him on 5.10.2009 is set aside and he is directed to hear all the concerned parties and rival claims of the parties and decide the same in accordance with Section 38 of the Act. The parties in the first instance may present before the learned Assistant Commissioner on 15th March, 2010 and after hearing all the parties, the learned Assistant Commissioner shall decide the rival claims of the parties of the said public trust in accordance with law.

8. With these observations this appeal is disposed of.

9. Till the next date fixed before the learned Assistant Commissioner, the status quo as it exists today shall be maintained and thereafter the management of the said trust would be governed by the further interim order or by way of direction as the case may be passed by the learned Assistant Commissioner.