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Sandhya Pant Vs. Deepak Ruwali

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Court : Supreme Court of India

Decided On : Aug-11-2022

Judge : Hon'Ble Ms. Justice Indira Banerjee Hon'Ble Mr. Justice V. Ramasubramanian

Appeal No. : C.A. No.-005238-005238 - 2022

Appellant : Sandhya Pant

Respondent : Deepak Ruwali

Advocate for Pet/Ap. : SATISH KUMAR __

Judgement :

REPORTABLE IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL No.2022 [ARISING OUT OF S.L.P. (C) No.1119 OF2021 SANDHYA PANT Appellant (s) Versus DEEPAK RUWALI & ORS. ...Respondent (s) WITH CIVIL APPEAL No.2022 [ARISING OUT OF S.L.P. (C) No.15775 OF2020

JUDGMENT

Indira Banerjee, J.

Leave granted.

2. These appeals are against a final judgment and order dated 19th November 2020 passed by the High Court of Uttarakhand in a Public Interest Litigation being Writ Petition (PIL) No.131 of 2018 without hearing the Appellant and without deciding the Appellants application being CLMA No.7758 of 2020 for impleadment, pending before the High Court.

3. According to the Appellant, Chitai Golu Devta Temple in Almora was constructed in 1919 by late Pandit Keshav Dutt Pant and late Bhola Dutt 1 Pant. As per a Report prepared by the Village Pradhan of Gram Sabha, Chitai Khasparja Tehsil Almora, the original rights in the temple vested with late Jaikishan Pant. The Appellant is the daughter-in-law of late Chaturanan Pant, a descendant of the said Jaikishan Pant. The Appellant claims to be the Vice President of the Mandir Samiti which was formed in 2012. A translated copy of the said Report of the Village Pradhan of Gram Sabha, Chitai dated 8th September 1976 is enclosed to the Paperbook.

4. According to the Appellant, the shebait rights of the Chitai Golu Devta Temple are as under: LATE SHRI JAIKISHAN PANT (Started worshiping Lord Golu Devta under a tree) LATE HARIBALLABH PANT LATE LAKSHMI KANT PANT LATE SHIV SHANKAR PANT LATE PREM BALLABH PANT LATE PARMANAND PANT LATE KESHAV DUTT PANT LATE BHOLA DUTT PANT LATE GANGADUTT PANT (Founded/constructed the temple in 1919) LATE GOVIND BALLABH PANT LATE HARI DUTT PANT LATE CHATURNAND PANT LATE DAMODAR PANT LATE NALIN PANT (Res. Nos.7 to 10 herein) Smt. SANDHYA PANT (W/o Late Shri Nalin Pant Appellant herein) 5. In compliance of Ordinance No.16 issued by the Government of Uttar Pradesh on 6th October 1986, extending the UP Hindu Public Religious Institutions (Prevention of Dissipation of Properties) Act 1962, Chaturanan 2 Pant, since deceased made an application for registration of the Chitai Golu Devta temple in the statutory form. In the said form it was stated that the Chitai Golu Devta temple not being a public temple, the provisions of the said Act may not apply to the Chitai Golu Devta temple.

6. On or about 29th October 1985, all the three main idols of the temple were registered under the Antiquities and Art Treasures Rules, 1973 in the name of late

Chaturanan Pant, father-in-law of the Appellant.

7. The Appellant has stated that, after the death of late Chaturanan Pant, his son Nalin Pant, since deceased, husband of the Appellant took over the management of the temple along with other family members, that is, the Respondent Nos. 7 to 10, who are sons of late Damodar Pant. After the death of her husband Nalin Pant, the Appellant stepped into his shoes.

8. On 5th June 2015, the Appellant and Respondent Nos.7 to 10 opened a Saving Bank Account in the IDBI Bank in the name of Golu Devta Mandir Samiti, Chitai, Almora. It is claimed that an amount of Rs.8.56 lakhs is lying in deposit in the said account.

9. The Respondent No.1, Deepak Ruwali, an Advocate and a resident of Nainital engaged in social work, filed a Writ Petition in public interest, being W.P. (PIL) No.131 of 2018, seeking a Writ of Mandamus directing the Respondent Authorities to constitute a registered society or trust for management of the temple.

10. According to the Appellant, Ashutosh Pant, Smt. Lajja Pant, Sh. 3 Paritosh Pant and other family members of the Appellant got the Public Interest Litigation (PIL) filed through the Respondent No.1 for oblique reasons. According to the Appellant, an application made by the Appellant along with the Respondent Nos.7 to 10 for registration of the Golu Devta Mandir Samiti has been kept pending because of the Public Interest Litigation.

11. On 11th September 2018, Ashutosh Pant and other family members filed objections before the Registrar of Societies, Almora and District Magistrate, Almora, hereinafter referred to as the District Magistrate, stating that objections should be considered before registration of the Mandir Samiti and other persons may be included in the Mandir Samiti.

12. On 18th September 2018, the District Magistrate constituted a Five Member Committee for inquiry with regard to the complaint made by Ashutosh Pant and others. On 1st October, 2018, the Members of the Committee constituted by the District Magistrate called for a meeting to look into the issues raised by Ashutosh

Pant in his complaint. According to the Appellant, only Ashutosh Pant, Paritosh Pant, Vasudha Pant and Lajja Pant were called to the meeting. The Appellant states that the Appellant and the Respondent Nos.7 to 10 who were discharging the duties of shebait of the temple were not called for the meeting.

13. On 8th October 2018, the District Magistrate allowed the representation of Ashutosh Pant and others for constitution of a temple committee like the Jageshwar Temple Committee.

14. On 30th November 2018, the District Magistrate filed his reply in the 4 Public Interest Litigation (PIL) in the High Court. On 7th January 2020, Vasudha Pant, wife of Ashutosh Pant filed an intervention application in the PIL which was numbered CLMA No.285 of 2018. The application was allowed by an order dated 10th January 2020.

15. On 27th February 2020, the Respondent No.1 moved an application for impleadment of the Respondent Nos.7 to 10 but excluded the Appellant who claims to be Vice President of the Mandir Samiti.

16. According to the Appellant, a copy of the Writ Petition filed by the Respondent No.1 was served on the Respondent Nos. 7 to 10 on 1st March 2020. However, by an order dated 4th March 2020, the High Court disposed of the PIL, without giving the Respondent Nos. 7 to 10 any opportunity to file their response. The High Court directed the Respondent No.6 to consider the report of District Magistrate and take decision for the constitution of an independent Managing Committee for administration of the non-religious activities of the temple.

17. On 26th June 2020, the Appellant, as daughter-in-law of late Chaturanan Pant filed a Review Application being MCC No.257 of 2020 in the High Court, seeking review of the said order dated 4th March 2020 passed in the PIL. While the Review Application was pending on 4th July 2020, the District Magistrate constituted a new Management Committee of the temple on 9th July 2020.

18. On 14th July 2020, the Appellant filed an independent Writ Petition (M/S) No.1096 of 2020 before the High Court. According to the Appellant, 5 the Writ

Petition was filed in view of some observations made by the High Court when the Counsel mentioned the Review Application, which had not been called on for hearing on 9th July 2020, though it had been listed on that day. The Single Bench of the High Court however, dismissed the Writ Petition on the ground that an independent committee had been constituted in compliance of the order of the Division Bench dated 4th March 2020 and the Appellant should move an application before the Division Bench. On 5th August 2020, the Appellant filed a Special Appeal No.140 of 2020 against the order dated 27th July 2020 passed by the Single Judge dismissing the Writ Petition (M/S) No.1096 of 2020.

19. By an order dated 16th September 2020, the Division Bench allowed an Application being CLMA No.4534 of 2020 filed by the Respondent Nos.7 to 10 and recalled its order dated 4th March 2020. In view of the order dated 16th September 2020, Special Appeal No.140 of 2020 filed by the Appellant became infructuous and was accordingly disposed of on 18th September 2020. The Review Application being MCC No.257 of 2020 filed by the Appellant was, however, dismissed on the ground that it had been filed by a third party, who was not party to the proceedings.

20. The Appellant submitted that the judgment and order dated 4th March 2020 had been recalled on 16th September 2020 before the District Administration could take over the management of the temple. The Chitai Golu Devta Temple is being managed by the Mandir Samiti in existence since 2011-2012.

21. On 22 September 2020, the Appellant filed an application for 6 impleadment being CLMA No.7758 of 2020 in the PIL filed by the Respondent No.1. The said application for impleadment was listed on diverse dates in September, October and November, 2020, but the same was not heard or decided. By the impugned judgment and order dated 19th November 2020, the Division Bench disposed of the PIL without deciding the application for impleadment filed by the Appellant.

22. By the impugned judgment and order, the Division Bench disposed of the Public Interest Litigation, directing the Managing Committee constituted pursuant to the order of the High Court dated 04.03.2020 to continue, observing that there were serious disputes with regard to shebait rights in the temple. According to the

Appellant, the impugned judgment and order was passed without hearing the Appellant. The High Court observed and held: 11. The claim of respondent nos.5 to 8 cannot be said to be a mere bald assertion or a pleading, not backed by facts. They have produced substantial material to prove their interest. The material produced by them date back to more than 100 years. Whether these documents are valid, appropriate or not, cannot be decided in a proceeding under Article 226 of the Constitution of India. These are material that have to be tested and proved in an appropriate civil court. Therefore, it is suffice to hold that the claim of respondent nos.5 to 8 are prima facie backed by material and, therefore, cannot be brushed aside. The material produced by the respondents, require to be proved by them in a court of law.

12. Therefore, considering the rival contentions and the material available, we are of the considered view that these are not matters that could be determined in a public interest litigation under Article 226 of the Constitution of India. There are serious rights which have to be agitated before an appropriate forum. The rights of the parties cannot be determined merely through affidavits filed before this Court. The plea of the writ petitioner that a selected family is misusing its powers and conducting the Pooja etc. the hereditary rights, as claimed by respondent nos.5 to 8 based on the various documents produced by them as well as the stand of the State with regard to the status of the land etc., are serious matters of dispute of right and interest. The same can only be determined before an appropriate civil court through 7 adequate evidence, or otherwise. It is for anyone to establish the fact that it is they who have an interest or a right in the temple. It is, therefore not proper for this Court, to record any finding, based on the affidavit filed, not only by the petitioner but even by respondent nos.5 to 8 as well as the State to hold that the land belongs to the State or not, whether respondent Nos.5 to 8 have a shebait right or not, whether the temple funds have been misused or not, etc. These are all issues to be determined only through a full fledged trial.

13. The fact of the magnitude of the number of devotees who are attracted by this temple, cannot be overlooked. It is not a temple that has been created recently. It is undisputed by all, that this is a very ancient temple which attracts lakhs of devotees every year. Unimagined faith is deposed in the deity, Public sentiments

are also issues to be considered delicately by the Court. These are not just matters of interpretation of law that is called for. The sensitive rights of the devotees vis--vis the rights of persons to exercise the shebait rights etc. have all to be considered minutely. It is therefore just and appropriate, that this Court refrains from granting any declaration as to who is the actual person who has a right to exercise the shebait rights or not etc. Therefore, we leave open the question for determination before an appropriate civil court. Whichever party claims its rights over the shebait rights or any other right, pertaining to the temple or any other right relatable to the temple, is entitled to approach the civil court for necessary relief. They would have to establish and succeed before the trial court to obtain any decree in their favour.

23. A Counter Affidavit has been filed on behalf of the Respondent State wherein it is stated that pursuant to the High Courts direction and the findings of the Inquiry Committee, the District Magistrate proposed to form a Temple Management Committee with the following members :- (i) District Magistrate, Almora as the Chairman (ii) Sub-Divisional Magistrate, Almora as the Deputy Chairman (iii) Chief Treasurer, Almora as the Ex-officio Member (iv) District Tourism Development Officer as Ex-officio Member (v) Prabandhak/Manager, Chitai Golu Devta Mandir Samiti as a member (vi) A representative of the priest as a member (vii) A specially invited member. 8

24. It is stated that a detailed criteria of eligibility was laid down for non-government members. The order stated that the Committee would make bye-laws for development of the temple and for sharing the donations with the priests. The Committee would also work to develop religious tourism by developing facilities relating to health, education, electricity, drinking water and hygiene in or around the temple precincts.

25. It is further stated that the State has set up the Committee only to manage the non-religious affairs of the temple. The Pant family/the Appellant and the Respondent Nos.7 to 10 are continuing to conduct Pooja in the temple, as per their rites, tradition and internal arrangement.

26. By an order dated 15th June 2020, the Secretary, Tourism, Government of Uttarakhand being the Respondent No.6, in compliance of the order of the High Court dated 4th March 2020, directed the District Magistrate to constitute the Committee of the Chitai Golu Devta Temple in line of Jageshwar Temple Management Committee.

27. On 4th July 2020, a Trust Deed was executed by the District Magistrate for constituting the Temple Management Committee for the purpose of management, administration and governance of the temple. The Trust Deed was duly registered with the office of the Sub-Registrar Office, Almora.

28. On 6th July 2020, the District Magistrate convened a meeting of members of the Temple Management Committee where it was decided:

9. (i) Toilets would be constructed for the devotees (ii) Parking space at the temple would be improved (iii) a tank for rainwater harvesting would be constructed (iv) Sub-Divisional Magistrate would initiate proceeding for appointment of the representative of the Priest in the Temple Committee. (v) Sub-Divisional Magistrate would appoint Manager of the Temple Committee as per the procedure adopted in the Jageshwar Temple.

29. On 8th July 2020, the Sub-Divisional Magistrate conducted a public meeting at the premises of the temple which was attended by nearly 67 people including Government Officers, Pujaris and local residents. The Appellant and the Respondent Nos. 7 to 9 also attended the meeting.

30. The minutes of the meeting were drawn up taking note of the suggestions of those who attended the meeting for improvement of the temple and the adjoining areas. Secondly, the suggestions were to make arrangements for availability of water at the temple, to put up solar panels at the temple premises, to lay down a detailed system for waste management and to make the temple plastic free. It was also decided that action would be taken to generate self-employment, particularly of local Kumaon women, by promoting local handicrafts, sale of organic prashad made of local sourced fruits, eco-friendly bags for carrying prashad and also to develop a library. Thirdly, it was decided that an arrangement would be made to

set up a budget dharamshala, CCTV cameras, marriage hall, live telecast of the arti at the temple. Further meeting was held on 23rd July 2020. A decision was taken with regard to 10 appointment of Manager of the temple and opening of bank account.

31. By the impugned judgment and order dated 19th November 2020, the High Court declined to record any finding on shebait rights or misappropriation of funds by those in management, based on the affidavits filed by the parties. The High Court directed that any person claiming a right, title or shebait rights could file a suit before May 2021. The independent Management Committee formed pursuant to the High Courts order dated 4th March 2020 was directed to continue, unless an order/interim order application was filed in any civil suit.

32. On behalf of the State, it was submitted that, given the importance and sanctity of the Chitai Golu Devta Temple, and in view of a letter alleging mismanagement received from Ashutosh Pant and various residents of the nearby village, the District Magistrate had formed a five- member Inquiry Committee, which had submitted its Report on 8th October 2018, with the recommendation that a Committee similar to a Committee of Jageshwar Temple be constituted to administer the Chitai Golu Devta Temple and a detailed set of regulations should be made for proper management of the temple. It was emphasized on behalf of the State that priests and pujaris, the Appellant and the Respondent Nos.7 to 10 were to continue to conduct Pooja in the temple as per their rites and rituals. The State would not interfere in the religious activities of the temple or the shebait rights of the shebaits.

33. On behalf of the State, it is also contended that the Chitai Golu Devta Temple is a public temple and it is within the realm of the State to 11 regulate its non-religious affairs. As noted by the High Court, the temple is visited by thousands of people and the manner in which the non-religious affairs are managed are within the realm of executive control. The funds received by the temple cannot be misappropriated and must be used for the development of the temple and for providing amenities to those who visit the temple.

34. On behalf of the State reliance has been placed on the judgment of this Court in Goswami Shri Mahalaxmi Vahuji v. Ranchhoddas Kalidas and Ors.1 where this Court laid down the criteria for differentiating between a private temple and a public temple. This Court held: 15. Though most of the present day Hindu public temples have been founded as public temples, there are instances of private temples becoming public temples in course of time. Some of the private temples have acquired a great deal of religious reputation either because of the eminence of its founder or because of other circumstances. They have attracted large number of devotees. Gradually in course of time they have become public temples. Public temples are generally built or raised by the public and the deity installed to enable the members of the public or a section thereof to offer worship. In such a case the temple would clearly be a public temple. If a temple is proved to have originated as a public temple, nothing more is necessary to be proved to show that it is a public temple but if a temple is proved to have origi- nated as a private temple or its origin is unknown or lost in antiq- uity then there must be proof to show that it is being used as a public temple. In such cases the true character of the particular temple is decided on the basis of various circumstances. In those cases the courts have to address themselves to various questions such as: (1) Is the temple built in such imposing manner that it may prima facie appear to be a public temple?. (2) Are the members of the public entitled to worship in that temple as of right; (3) Are the temple expenses met from the contributions made by the public?. (4) Whether the Sevas and Utsavas conducted in the temple are those usually conducted in public temples?. 1 (1969) 2 SCC85312 (5) Have the management as well as the devotees been treating that temple as a public temple?.

35. It is submitted that the Chitai Golu Devta Temple has acquired fame, and has a daily footfall of thousands of worshippers per day. People come in huge numbers to pray for fulfilment of their wishes and desires and offer bells which are hung at the temple. Furthermore, the land on which the temple is located, as well as the land surrounding the temple belongs to the State. As argued on behalf of the State, the appointment of an independent Managing Committee for managing the temple is a secular matter and can be regulated by the State. In Jagdish Prasad v. Mahant Tribhuwan Puri2, this Court held:- 6. We heard counsel on both

sides and also gave our anxious consideration to the various questions raised in this appeal. We are of the view that the finding recorded by the High Court that Ram Mandir is a public temple is correct and does not call for interference. The High Court has however, not gone into the other questions raised in the suit as to the mismanagement of the temple and the right of the persons to act as shebait of the temple. In the view that we propose to take, it may not be necessary to go into all these questions. Ram Mandir has been declared to be a public temple. There is no deed conferring the right on any person to manage the temple exclusively. There is a rival claim for the right of management. It would be, therefore, proper to frame a scheme for management. We therefore, direct the District Judge to frame a scheme for proper management of the temple. In that scheme, Plaintiff 1 since deceased by his LRs and the defendant be given equal rights in the management. If they are not able to cooperate with each other, they may be given such exclusive rights in the alternate periods of six months or one year. The scheme also may provide the right to nominate the successor of Plaintiff 1 and the defendant for management of the temple. We, however, make it clear that the directions given by the trial court against the defendant in regard to the missing articles of the temple is kept undisturbed and the defendant shall be asked to restore all the articles to the temple. The court will also take care to see that the temple premises or any other building appertaining thereto is not utilised for the private use of the parties or their relations. These are only some of the suggestions. The District Judge will take into consideration other aspects also while framing a proper scheme. The scheme shall be framed within six months from the date of receipt of this order. 2 (1987) Supp SCC48213 36. On the face of the averments made in the pleadings in the High Court and/or in this Court, it is apparent that there are inter se disputes between members of the Pant family over the management of the Chitai Golu Devta Temple. Prior to the formation of the Temple Management Committee, even the non-religious affairs of the Chitai Golu Devta Temple, such as temple upkeep, maintenance, sanitation etc. were looked after by the Pant family members. The donations received from pilgrims were allegedly used by the Pant family for their personal use and not for improving the facilities at the temple. It was also argued that the Appellant owns and runs a marriage hall adjacent to the temple and also runs a shop. The Appellant is,

therefore, not facing any financial hardship as such. Whether the Appellant has any financial hardship or not is however irrelevant to the issues involved in this appeal.

37. In passing the impugned order the Division Bench took note of the following factors: (i) The contention of the State that as per the Khatauni of Fasli Year 1411-1416, that the land occupied by the Golu Devta Temple at Chitai had been recorded in the revenue records, as Non Z.A. Khatauni Category 10(2), which is government land; (ii) There was a serious dispute with regard to the shebait rights of the persons who conduct the pooja in respect of the temple. Whether the documents produced by the Respondent Nos.7 to 10 were valid or genuine documents, would have to be tested and proved in an appropriate Civil Court. 14 (iii) The magnitude of the number of devotees is overlooked. The temple is an ancient temple. Public sentiments are involved.

38. There can be no doubt that the State has the right to control the non-religious affairs of the temple situated on Government land and ensure that donations received from the public are not misappropriated or wasted.

39. It is the contention of the Appellant that the descendant/founder of the temple has the right to manage the temple. However, when prayers are being conducted for generations and there are many branches of the family, disputes inter se between the members of the family have to be settled. The High Court rightly found that this could be done by institution of a suit.

40. Mr. Gupta appearing on behalf of the Appellant submitted that when an idol is installed and a temple is constructed, shebaitship is vested in the founder and unless the founder himself has disposed of the shebaitship in a particular manner, or there is some usage or custom or circumstance showing different mode, the shebaitship like any other species of heritable property follows the line of inheritance from the founder; and it is not open to the Court to lay down a new rule of succession or alter the rule of succession. In support of his submission, Mr. Gupta cited Sri Marthanda Varma Anr. v. State of Kerala & Ors.3.

41. In Marthanda Varma (supra), this Court held:- 3 (2021) 1 SCC22515 152. Consistent with the stand that the Temple is a public Temple and that no remuneration at any stage was derived in the past or would be aimed at in future, a suggestion was made on behalf of the appellants in the form of a note in response to the affidavit-in-reply filed on behalf of the State. In the said note, which is set out in detail in para 64 hereinabove, the appellants have suggested the composition of an Administrative Committee, and of an Advisory Committee. Broadly, it is suggested that the Administrative Committee be formed comprising of five Members, the Chairperson being a retired Indian Administrative Service Officer of the rank of Secretary to the Government of Kerala; the other four members being: (i) a nominee of the trustee; (ii) the Chief Thantri of the Temple; (iii) a nominee of the Government of Kerala; and (iv) a Member to be nominated by the Ministry of Culture, the Government of India. In terms of Para 8 of the note, the trustee that is to say the Manager or shebait of the Temple would be guided by the advice given by the Advisory Committee.

153. On the other hand, the suggestion made on behalf of the State is to follow the model statutorily enacted for Guruvayoor Devaswom, and thus the Managing Committee would be of eight Members comprising of two ex-officio members, namely, Padmanabhadasa and the Senior Thantri; while the other six members would be nominated by the Hindus among the Council of Ministers; one of them being member of the Scheduled Castes and Scheduled Tribes while one being a woman, and the other being a representative of the employees of the Temple. *** 157. The provisions of the TC Act with respect to the administration of the Temple are clear:

157. 1. Under Section 18(2), the administration shall be conducted. Subject to the control and supervision of the ruler of Travancore, by an Executive Officer appointed by him.

157.2. Sree Padmanabhaswamy Temple Committee comprised of three members nominated by the ruler of Travancore in terms of Section 20 is to advise the ruler of Travancore in the discharge of his functions.

158. The statute has thus vested the power of appointing the Executive Officer and of forming the Advisory Committee, in the ruler of Travancore. In the note, the appellants have stated:

158. 1. The trustee shall delegate his powers of administration under Section 18(2) to the Administrative Committee which shall administer the Temple through an Executive Officer to be appointed by the Committee. 158.2. On all policy matters, the trustee shall be guided by the 16 advice of the Advisory Committee.

159. Having given our anxious consideration to the rival suggestions, the composition of the Committees as suggested by the appellants deserves acceptance, especially in light of the conclusions arrived at by us that the Managership or the shebaitship of the Temple continues with the Family. As against the administration contemplated by Chapter III of Part I of the TC Act in the hands of the ruler of Travancore in absolute terms, the course now suggested by the appellants is quite balanced. The composition of the Administrative Committee as suggested is broadbased and would not be loaded in favour or against the trustee. However, considering the fact that the present interim Administrative Committee headed by the District Judge is in seisin for the last more than five years, and various District Judges as Chairpersons of the Committee conducted themselves quite well, in our view, a minor change in the Administrative Committee suggested by the appellants in their note is called for. Instead of a retired Indian Administrative Service Officer of the rank of Secretary to the Government of Kerala as the Chairperson of the Administrative Committee, in the interest of justice, the District Judge, Thiruvananthapuram shall be the Chairperson of the Administrative Committee. Needless to say that the present Chairperson of the Interim Administrative Committee shall continue to be the Chairperson so long as he holds the post of the District Judge, Thiruvananthapuram. The composition of the Advisory Committee will ensure that the administration of the Temple is conducted in a fair and transparent manner.

160. We, therefore, accept the suggestions made by the appellants in their note adverted to in detail in para 64 hereinabove with regard to the constitution of the Administrative Committee and the Advisory Committee subject to the modification

with respect to the Chairperson of the Administrative Committee as stated in the preceding paragraph. Appellant 1 shall file an appropriate affidavit of undertaking within four weeks of this judgment in terms of Para 1 of the note and also agreeing to the modification as stated above. The affidavit of undertaking so filed shall be binding on Appellant 1 and all his successors. *** 162. In terms of the note submitted by the appellants, the powers of the ruler of Travancore under Section 18(2) of the TC Act shall stand delegated to the Administrative Committee while the Advisory Committee shall be deemed to be the Committee constituted in terms of Section 20 of the TC Act. It is made clear that all the members including the Chairpersons of the Administrative Committee and the Advisory Committee must be Hindus and fulfil the requirements in Section 2(aa) of the TC Act. All the other Committees constituted in terms of various orders passed by this Court shall continue for four months, and it shall be up to the Advisory Committee to consider whether the services of those Committees are required or not. It must also be stated that the present security arrangements as deployed by the State Government shall be continued, but the expenses in that behalf shall be borne by the Temple hereafter. 17

42. There is a difference in the traditional mode and manner of management of the Padmanabhaswamy Temple at Thiruvananthapuram in respect of which the right of management is vested with the Ruler of Travancore and the Chitai Golu Devta Temple administered by the Appellant and the Respondents. Be that as it may, even in the case of the Padmanabhaswamy Temple, the Court vested the Temple Committee constituted in terms of its order, with all the powers of management of the Ruler of Travancore.

43. In the instant case, it is not exactly clear as to which heirs of the Pant family are entitled to shebaitship rights in respect of the Chitai Golu Devta Temple and there appears to be disputes in this regard amongst members of the Pant family.

44. The judgment in Guruvayoor Devaswom Managing Committee and Another v. C. K. Rajan and Others4, cited by Mr. Gupta was rendered in the facts and circumstances of the case of Guruvayoor Temple. In this case, the Court held:- 56. The case at hand does not fall in any of the aforementioned categories, where a

PIL could be entertained.

57. No reported decision has also been brought to our notice where a public interest litigation was entertained in a similar matter.

58. We have also not come across any case so far where the functions required to be performed by statutory functionaries had been rendered redundant by a court by issuing directions upon usurpation of statutory power. The right of a person belonging to a particular religious denomination may sometimes fall foul of 4 (2003) 7 SCC54618 Articles 25 and 26 of the Constitution of India. Only whence the fundamental right of a person is infringed by the State an action in relation thereto may be justified. Any right other than the fundamental rights contained in Articles 25 and 26 of the Constitution of India may either flow from a statute or from the customary laws. Indisputably, a devotee will have a cause of action to initiate an action before the High Court when his right under statutory law is violated. He may also have a cause of action by reason of action or inaction on the part of the State or a statutory authority; an appropriate order is required to be passed or a direction is required to be issued by the High Court. In some cases, a person may feel aggrieved in his individual capacity, but the public at large may not.

59. It is trite, where a segment of the public is not interested in the cause, a public interest litigation would not ordinarily be entertained.

60. It is possible to contend that the Hindus in general and the devotees visiting the temple in particular are interested in proper management of the temple at the hands of the statutory functionaries. That may be so but the Act is a self-contained code. Duties and functions are prescribed in the Act and the Rules framed thereunder. Forums have been created thereunder for ventilation of the grievances of the affected persons. Ordinarily, therefore, such forums should be moved at the first instance. The State should be asked to look into the grievances of the aggrieved devotees, both as parens patriae as also in discharge of its statutory duties. *** 63. The High Court should not have proceeded simply to supplant, ignore or bypass the statute. The High Court has not shown any strong and cogent reasons for an Administrator to continue in an office even after expiry of his tenure.

It appears from the orders dated 7-2-1993 that the High Court without cogent and sufficient reason allowed the Administrator to continue in office although his term was over and he was posted elsewhere. He also could not have been conferred powers wider than Section 17 of the Act. The High Court took over the power of appointment of the Commissioner bypassing the procedure set out in the Act by calling upon the Government to furnish the names of 5 IAS officers to the Court so that it could exercise the power of appointment of the Commissioner.

45. Unlike the Guruvayoor Temple which was governed by Guruvayoor Devaswom Managing Committee constituted under the Guruvayoor Devaswom Act, 1978, there is no specific statute governing the Chitai Golu Devta Temple. 19

46. In our considered view, the High Court has not committed any error in passing the impugned order. The only question is, whether the order should have been passed in the absence of the Appellant, without deciding the Appellants application for impleadment. On a perusal of the judgment and order, it does not appear that anyone drew the attention of the Court to pending impleadment application of the Appellant. The Appellant could have appeared and made submissions if she had so chosen, even without being added as party. In any case, other members of the Pant family including the Respondent Nos.7 to 10, who, according to the Appellant were in the Mandir Samiti of which the Appellant claims to be Vice President were duly given an opportunity of hearing. We are not inclined to interfere with the judgment and order impugned.

47. The appeals are, accordingly, dismissed. ..J.

[INDIRA BANERJEE]. ..J.

[J.K. MAHESHWARI]. NEW DELHI; AUGUST11 2022 20

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