

Syed Husaln Vs. Syed Hamid and ors.

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SooperKanoon Citation : sooperkanoon.com/456556

Court : Allahabad

Decided On : Feb-06-1930

Reported in : AIR1930All577

Appellant : Syed Husain

Respondent : Syed Hamid and ors.

Judgement :

Banerji, J.

1. This is an application in revision filed by Syed Husain, one of the trustees of a Mahomedan Trust relating to a mosque at Jaunpore. In the year 1927 an application was presented to the District Judge by seven persons for permission to institute a suit against the applicant and to others under Section 18, Act 20 of 1863. The learned District Judge holding that there was a sufficient prima facie ground for instituting the suit granted permission to the applicants.

2. Against that order the present revision has been filed and it is contended by the learned advocate for the applicant that as no prima facie ground has been made out, the learned District Judge should have held an inquiry and after coming to a conclusion on the evidence before him given his decision. We are of opinion that Section 13 does not require any elaborate inquiry and it is specifically laid down there that the Court on a perusal of the application shall determine whether there are sufficient prima facie grounds for the institution of a suit. The learned District

Judge had sufficient materials before him to come to the conclusion that he did. The next point urged is that the wakf not having been created before the year 1863 the provisions of that Act did not apply to this wakf, and that under Section 14 of the Act the Court could not grant the reliefs which the respondent to this revision asked for. The provisions of S.14 of the Act in our opinion are generally applicable to a religious endowment of the nature relating to which sanction was sought by the opposite party. The reliefs claimed are reliefs which could be granted to the plaintiff under Section 14. In the case of *Sheoratan Kunwari v. Ram Pargash* [1896] 18 All. 227 and *Mohammad Sirajulhaq v. Imamuddin* [1896] 19 All. 104 it was held that in the application for reliefs under Section 14 it is not necessary that the religious endowment should be one in which the property had been transferred by the Board of Revenue to the Trustees and that Section 14 applied generally to all trusts. The words used in the section are 'Any person interested in any mosque....' 'Any mosque' must necessarily mean not only mosques which were in existence in 1863 but mosques which are now in existence and relating to which a civil Court could give relief.

3. We are of opinion that there is no force in this application and we dismiss it with costs.