

Devi Prasad and ors. Vs. Shri Rameshwar Puri and anr.

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Court : Allahabad

Decided On : Feb-05-2007

Reported in : 2007(2)AWC1225

Judge : Tarun Agarwala, J.

Appellant : Devi Prasad and ors.

Respondent : Shri Rameshwar Puri and anr.

Judgement :

Tarun Agarwala, J.

1. There is a temple known as Ram Mandir in Vishwanath Gali in district Varanasi and adjoining it is a temple of Annapurna Devi which is alleged to be a math. It transpires that the said Ram Mandir was founded by Sri Purshottam Das and that the temple was managed by Purshottam Das and Shivnath Puri. After their death, the heirs of Purshottam Das started claiming that they were the exclusive sibaits of the temple on the ground that the right of sibaitship vested in Purshottam Das who was the sole founder of the temple and that Purshottam Das had nominated his son as his successor. Tribhuvan Puri claimed that the office of sibaitship of Ram Mandir was vested in the mahant of the math Annapurna Devi and, by virtue of being the mahant of the math of Annapurna Devi, he had the right of being the sibaits of Ram Mandir. This dispute led to the filing of a suit in the year 1959, seeking a relief for a declaration, that the plaintiff, being the son of the founder of

the temple was entitled to be the chief sibaith of the temple with the final authority to control and manage the affairs of Ram Mandir. An injunction was also sought against the defendant from taking any offering from the temple or from interfering with the management of the temple.

2. The trial court decreed the suit and held that Ram Mandir was not a public temple but was a private temple and that the plaintiff succeeded as the sibaith of the Ram Mandir, being an heir of the founder. In appeal, the High Court held that the Ram Mandir was a public temple and, on that basis, non-suited the plaintiff. The Supreme Court also held that the Ram Mandir was a public temple and that there was no deed conferring a right upon any person to manage the temple exclusively. Since there was a rival claim for the right of management, the Supreme Court directed the District Judge to frame a scheme for the proper management of the temple. The Supreme Court held:

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 L.R. and the defendant be given equal rights in the management. If they are not able to cooperate each other, they may be given such exclusive rights in the alternative 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 to 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.

3. Based on the aforesaid direction, the District Judge framed a scheme. Paragraph 3 of the scheme contemplated that the temple would be managed by the first party for a period of one year and thereafter, the charge would be handed over to the second party and, in this way, the temple would be managed by both

the parties, turn by turn. Paragraph 5 of the scheme contemplated that the parties would be called the managers and that they would have a right to nominate their successors. Paragraph 31 of the scheme contemplated that in case there was a dispute between the parties the matter would be decided by the District Judge.

4. It transpires that the scheme became effective in the year 1995 and, since then, the management of the temple was being managed by the petitioners for one year and in the subsequent year, by Sri Tribhuwan Puri. The record suggests that whenever the turn of the petitioners came to hand over the charge to Tribhuwan Puri, they used to raise a dispute. In the year 1995, the petitioners raised a dispute that Tribhuwan Puri was the chela of mahant Kapilmuni and was not the chela of Vishwanath Puri and therefore, had no right to participate in the management of the temple. Similar dispute was again raised in the year 2003 by the petitioners which came up to the High Court and eventually, the High Court by a Judgment dated 15.9.2003, in Civil Revision No. 323 of 2003, held that Tribhuwan Puri had a right to manage the Ram Mandir and that the petitioners had no right to restrain Tribhuwan Puri from exercising the sibaiti right in his own turn.

5. It transpires that the charge of the temple was required to be handed over by Tribhuwan Puri to the petitioners w.e.f. 25.9.2004, but before the charge of the temple could be handed over, Tribhuwan Puri had a stroke on 9.9.2004 and went into a coma and eventually, died on 2.10.2004. The petitioners were given charge to manage the temple and when their turn came to hand over the charge in September, 2005, an application for substitution was filed by the defendants Rameshwari Puri and Shanker Puri claiming themselves to be the heirs and representatives of Tribhuwan Puri and the right to manage the Ram Mandir on the ground that they had been elected as the mahant and upmahant of the math Annapurna Devi and by virtue of being the mahant of Annapurna Devi, they had the right to manage the Ram Mandir. The defendants, in their application, also stated that there were other cases pending against Tribhuwan Puri in which, the defendants were impleaded as the heirs of Tribhuwanpuri. In paragraph Nos. 8 and 9 of the application, the defendants contended that after the death of Tribhuwan Puri, the office of mahant of the math Annapurna Devi remained vacant for fifteen days and that Sadhu and Sanyasis assembled together and gave the

charge of the mahant of the math Annapurna Devi to Goswami Subhash Puri. It was further stated that Subhash Puri declined to take the responsibility and subsequently, he executed a registered deed on 2.7.2004, appointing the defendants as the mahant and upmahant of Annapurna Devi.

6. The District Judge, by an order dated 26.9.2005, held that the defendants Rameshwari Puri and Shanker Puri are the legal representatives of Tribhuwan Puri and had a right to manage the Ram Mandir. The District Judge further found that even though Tribhuwan Puri did not execute any deed of nomination yet, by the conduct of Tribhuwan Puri, the defendants were nominated as his successors, The District Judge found that since the defendants were substituted as the legal heirs and the representatives of Tribhuwan Puri in other cases, consequently, the defendants were liable to be substituted as the legal heirs of Tribhuwan Puri in the present dispute and that they had a right to manage the affairs of the temple as per the scheme. The District Judge by the impugned order, further directed the petitioners to hand over the charge of the management of the temple to the defendants.

7. The petitioners, being aggrieved by the aforesaid order has filed the present writ petition under Article 226 of the Constitution of India. At the time when the writ petition was presented, an interim order dated 18.10.2005 was passed by the High Court, directing the District Judge to manage the temple in question either himself or through any judicial officer. This interim order continued during the pendency of the writ petition.

8. Heard Sri Shashi Nandan, the learned senior counsel assisted by Sri Ashish Kumar Singh for the petitioners and Sri R. N. Singh, the learned senior counsel assisted by Sri G.K. Singh for the respondents.

9. The learned Counsel for the petitioners submitted that the impugned order was manifestly erroneous in law and that the defendants could not be given the right to manage the Ram Mandir, as they were never nominated by Tribhuwan Puri during his life time. The learned Counsel further submitted that the defendants was subsequently, elected as the mahant and upmahant of the Annapurna Devi math and that such an election did not give them any right to manage the Ram Mandir

as per the scheme framed by the District Judge. The scheme contemplated that the petitioners and Tribhuwan Puri would manage the temple turn by turn for a period of one year and that the petitioners and Tribhuwan Puri had a right to nominate their successors. Tribhuwan Puri did not nominate his successor during his life time and therefore, the defendants had no right to manage the Ram Mandir. The learned Counsel for the petitioners also submitted that under the scheme, only a person, who had been nominated by Sri Tribhuwan Puri, could manage the affairs of the Ram Mandir and that all other forms of succession was specifically excluded by the scheme. In any case, the learned Counsel urged, that the defendants could not be given the charge of the temple on a substitution application. The remedy available was to file an application under Section 92, C.P.C.

10. On the other hand, the learned Counsel for the respondents submitted that the defendants were elected as the mahant and upmahant of the Annapurna Devi and that the office of the sibaiship of Ram Mandir was vested in the mahant of Annapurna Devi. Since, the defendants were elected as the mahant and upmahant they had the right to manage the affairs of the Ram Mandir under the scheme.

11. Admittedly, Sri Tribhuwan Puri did not execute any deed nominating the defendants as his successor. The defendants, in paragraph Nos. 8 and 9 of the substitution application, has specifically stated that the math elected Subhash Puri as the mahant, who declined to take the responsibility of the temple and the math and abdicated the office and thereafter, placed the defendants as the mahant and upmahant of the math. Paragraph Nos. 8 and 9 of the said application is reproduced hereunder:

8. That after the death of mahant Goswami Tribhuwanpuri the Gaddi (office) of mahant remained vacant for 15 days, but on 16th day of his death while Shodasi Bhandara was solemnised men of fraternity and sadhus and Sanyasies of Akhada Maha Nirwani Panchayati, Allahabad, with, whom erstwhile mahants of the Annapurna Temple had their nexus assembled together and gave the Chandar Mahanti of the math and Temple of Annapurnaji to Goswami Subhaspuri the

person who had appointed late Goswami mahant Tribhuwanpuri as mahant of Annapurna Temple but Shri Subhaspuri again declined to take the responsibility of the said temple and math, therefore, he again abdicated and abandoned his office no sooner than its assumption by him and himself placed the applicant No. 1 on the Gaddi of mahant and the applicant No. 2 on the Gaddi of upmahant and the same ceremony was repeated with greater Zeal and fervour on the same day. The two applicants were throned as such and offered Chandar Mahanthi of their respective post by sanyasies concerned.

9. That after few days, getting some relief from burden some activities following the said Bhandara and intervening festival of Navaratri, mahant Subhaspuri, voluntarily executed a registered deed of appointment also in favour of applicants on 27.10.2004 which is recorded in the office of the Sub-Registrar III, Varanasi Book No. IV. Volume No. 1 at pages 341/352 document No. 159 and since then the applicants have been working as such in capacity of the appointees, as mahant and upmahant respectively although they were seated in their respective office on 17.10.2004.

12. From the aforesaid, it is clear that the defendants are claiming succession to mahantship not as the chela of mahant Tribhuwan Puri but by election as well as through a deed executed by Subhash Puri.

13. The scheme made by the District Judge, Varanasi is clear and specific. The temple had to be managed by the petitioners for one year and thereafter by Tribhuwan Puri for one year and in this way the management of the temple was to continue from year to year. Paragraph 5 of the Scheme specifically contemplated that each party would have a right to nominate his successor. In the present case, admittedly, Tribhuwan Puri did not nominate any person in writing. Normally, the office of a mahant is succeeded by the chela of the mahant and in a panchayati math, the succession is governed by election. In the present case, neither has occurred. The defendants have nowhere alleged that they were the chelas of Tribhuwan Puri or that Tribhuwan Puri, during his life time, had nominated the defendants as his successor nor paragraph Nos. 8 and 9 of the substitution application states that the math had a panchayati system of electing a mahant and

that they were elected as the mahant. Infact, the allegation is, that Subhash Puri was elected as the mahant, who declined and abdicated his office and thereafter nominated the defendants by a registered deed, as the mahant and upmahant. Further, the mere fact that the defendants have become the mahant and upmahant of Annapurna Devi math did not give them any indefeasible right to manage the office of sibaiship of Ram Mandir on the ground that the office of sibaiship of Ram Mandir vested in the math of Annapurna Devi. This claim that the office of sibaiship of Ram Mandir, vested in the math of Annapurna Devi was claimed in the earlier suit of 1959 by Sri Vishwanath Puri which was dispelled by the court below. Such claim, as per custom, had not been proved by the defendants. Consequently, the mere fact that the defendants have become the mahant and upmahant of the math of Annapurna Devi did not give them any right to manage the affairs of Ram Mandir as per the scheme of Management framed by the District Judge, Varanasi.

14. In view of the aforesaid, the Court is of the opinion that the order of the District Judge holding that the defendants were nominated by Sri Tribhuwan Puri under the scheme, to manage the affairs of Ram Mandir is patently erroneous. The impugned order cannot be sustained and is quashed. The writ petition is allowed and Civil Misc. Application No. 132 of 2005 is disposed of.

15. This Court finds that the Ram Mandir was required to be managed by the petitioners for one year and thereafter by Sri Tribhuwan Puri. Since, Tribhuwan Puri did not nominate his successor, the Ram Mandir cannot be managed any further as per the scheme. Consequently, the District Judge, Varanasi is directed to manage the affairs of the Ram Mandir himself or through any Judicial Officer in his Judgeship till such time a new scheme is framed under Section 92, C.P.C. In the circumstance of the case parties shall bear their own cost. A certified copy of this order shall be sent by the Registry to the District Judge, Varanasi within two weeks from today for necessary compliance.