

Baba and ors. Vs. Sukkha and ors.

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Court : Allahabad

Decided On : Nov-27-1922

Reported in : AIR1923All165; 77Ind.Cas.918

Judge : Stuart, J.

Appellant : Baba and ors.

Respondent : Sukkha and ors.

Judgement :

Stuart, J.

1. This appeal raises some interesting points. It relates to rights to officiate as pujaris at the temple of Sitla at Farahampur Kalesharman. Farahampur Kalesharman is a small place close to Kara in the Allahabad District. Kara is the head quarters of a Tehsil and was once a place of importance. The temple in question is of some antiquity. The learned Munsif who heard the original suit stated in his judgment that according to the Allahabad Gazetteer this temple was four thousand years old. I have been unable to trace a quotation that the temple is four thousand years old, but it is referred to at page 87 of the Gazetteer as one of the old temples in the district and it is a place where three fairs are held every year to which a large number of persons go. It is established on the facts that connected with the temple are certain families of mails and it is found on facts that for very many years certain families of malts who are Hindus and certain families

of malis who are Muhammadans, have both officiated as pujaris in this temple which is undoubtedly a Hindu temple. The lower Courts have gone on to find that they have so officiated without any real objection being taken either by Hindus or Muhammadans. Apparently Hindu worshippers have in many instances willingly accepted the ministrations of the Muhammadan malis. It is probable (one can only conjecture in matters of this nature) that whoever were the original pujaris of the temple, there were attached to this temple, (as is usually the case) certain families of the malis caste who supplied the flowers for use in the temple, and that as years went on there malis united the functions of pujaris with the functions of malis and that some of them became Muhammadans very likely during the period of the Muhammadan domination of Kara. It would appear that in spite of certain of these malis becoming Muhammadans, they contrived to take their share of the pilgrims offerings and even to officiate in the temple.

2. The findings of the Courts below must be examined carefully. They are, that Muhammadans have taken charge of pilgrims who come to the temple; that Muhammadans have received offerings of pilgrims who have come to the temple; that Muhammadans have even performed the ceremonies of laying hands on the pilgrims coming to the temples and that this habit has continued for a very large number of years. Accepting these findings of fact I come to the grounds of appeal.

3. The first ground is that the burden of proof was wrongly laid. There is no force in this. There was no question of burden of proof. Both sides called evidence and the Courts below have arrived at an affirmative finding that the Muhammadan are in the position which I have already stated they are in at present.

4. The next ground taken that temple came into existence before the Muhammadan religion come into existence. On that point it is impossible to arrive at a finding. Tradition would seem to suggest that the temple did come into existence before the Muhammadan religion came into existence but there is no evidence to support such a conclusion.

5. The next ground is that the very idea of a non-Hindu entering the consecrated part of a temple is obnoxious to Hindu sentiment and inconsistent with Hindu religion. This ground conflicts with the findings of fact because on the findings of

fact the Hindus who attend this temple do not object to Muhammadans performing the functions which they claim the right to perform.

6. The next ground is that any association or mixing up of Muhammadans with Hindus or sharing in the offerings is of no legal consequence and cannot confer any right On the defendants to officiate as priests.

7. Now it must be remembered that main are Shudras. There is very little difference between Kachis, Muraos and Malis and the status of the mail is that of the Kachi. He is a superior Shudra, not an unclean Shudra, a clean Shudra performing clean work and in no way a person to be despised, but nevertheless a Shudra. It is a well-known fact that when Shudras become Muhammadans it frequently happens the their social relationship with Hindu Shudras remains much as it was, end in such cases it is much more a question of custom than a question of what is laid down by writers on the Hindu law, As a matter of fact there is nothing as for as I know in the Hindu sacred writings which in anyway touches on this subject. It is impossible to decide a question like this on a priori principle that it is impossible for a non Hindu to officiate in a temple such as the temple in question. What has to be looked at is what has been the usage in the past. I admit the position is peculiar but on the facts hardly any one seems to mind. The duties of the pujari appear to be confined to reciting some more or less colourless. words and mainly to collecting the offerings and being in the temple in such a manner that the worshipper will feel that he has really made a pilgrimage to a shrine and offered up prayers which the sanctity of the shrine (the personality of the pujan being a matter of no importance) is likely to cause to be successful.

8. I should not discuss the 4th ground from any point of view other than the point of view of use.

6. The 5th ground questions the interpretation by the lower Courts of the documents upon the record. On this I will only say shortly that I agree with the interpretation.

7. The last ground endeavours to draw a distinction between the right to officiate as a priest and the right to receive offerings. In some cases these two rights can

be separated but on the evidence it appears to me that in this particular temple the right to receive the offerings and the right to perform the exceedingly simple duties of pujaries are so connected as not to be separate.

8. For the above reasons I dismiss this appeal with costs including fees on the higher Scale.

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