

Mast Ram and ors Vs. State of Jandk; and ors

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Court : Jammu and Kashmir

Decided On : Mar-04-2013

Judge : Hon'ble Mr. Justice M. M. Kumar

Appellant : Mast Ram and ors

Respondent : State of Jandk; and ors

Judgement :

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU. LPAOW NO. 65 OF 201.Mast Ram and ors Petitioners State of J&K and ors Respondent !Mr. B. S. Salathia, Sr. Advocate with Mr. Deepak Singh Balouria, Advocate ^Mr. V. R. Wazir, Sr. Advocate with Mr. Abhishek Wazir, Advocate Honble Mr. Justice M. M. Kumar, Chief Justice Honble Mr. Justice Mansoor Ahmad Mir, Judge Date:

04. 03.2013 :

: M. M. Kumar, CJ 1.The instant appeal under Clause 12 of the Letters Patent is directed against interim order dated 15.11.2011 passed in CMP no. 1235/2010 by the learned Single Judge of this Court.

2. The appellants had approached the learned Single Judge with a prayer that the writ petitionerrespondents 6 to 13 have filed a petition being OWP no. 262/2010 challenging order dated 10.12.2009 passed by the District Magistrate, Samba. According to the aforesaid order a committee has been constituted by Tehsildar, Samba vesting Administration, Management & Governance of Shri Goran Baba

Shrine and Shrine 2 funds (for brevity the Shrine) in that Committee. The aforesaid order has been subject matter of challenge before the Writ Court and the District Administration has been impleaded as party. The appellants filed an application bearing no. CMP no. 1235/2010 with a prayer for their impleadment as party respondent in OWP no. 262/2010. The learned Single Judge dismissed the application with the observations that the appellants were not necessary party as challenge concerning the order of the District Magistrate, Samba filed by the writ petitioner-respondents 6 to 13 could be decided without their presence. Accordingly, CMP no. 1235/2010 was dismissed and feeling aggrieved the appellant-applicants have filed the instant appeal.

3. It has not been disputed before us that the appellants were nominated by the Deputy Commissioner/Tehsildar as members of the committee vesting Administration, Management & Governance of the Shrine and Shrine funds. It has also not been disputed that they were the member of the committee constituted by Tehsildar and approved by the District Magistrate. The order dated 10.12.2009 was passed by the Administration in their favour. The writ petitioner³ respondents 6 to 13 have filed a writ petition seeking a writ of certiorari quashing order dated 10.12.2009. The adjudication of the aforesaid order could adversely affect the rights of the appellants because if the appellants are nominated member then there is no doubt that they would be interested as well as proper party. The learned Single Judge has not taken the correct view. The same is thus liable to be set aside.

4. As a sequel to the above discussion, this appeal succeeds. The application bearing no. CMP no. 1235/2010 for impleadment of the appellants as party respondent is allowed. The appellants are held entitled to file their objections to the writ petition before the learned Single Judge at the earliest preferably within a period of two weeks. The appellants shall be entitled to participate in the proceedings before the learned Single judge.

5. The appeal stands disposed of in the above terms. (Mansoor Ahmad Mir) (M. M. Kumar) Judge Chief Justice Jammu, 04.03.2013 Parshant