

Mahant Narayangiri Guru Mahant Someshwarigiri

Vs

The State of Maharashtra and Another

Civil Appeal No. 820 of 1968

(H.R. Khanna,P.K. Goswami JJ)

17.03.1976

JUDGMENT

KHANNA, J. -

1. This is an appeal by special leave by Mahant Narayangiri against the judgment and decree of the Bombay High Court affirming on appeal the decision of the trial Court. Whereby the suit filed by the plaintiff-appellant, had been dismissed. At the time leave was granted, it was restricted to the question as to whether the appellant was the successor to the deceased mahant as chela and whether the High Court was right in refusing to go into this question.
2. The appeal arises out of a suit brought by the appellant for a declaration that the property in dispute was the private property of his guru Mahant Someshwarigiri deceased and as such he was entitled to own and maintain his possession over that property. Declaration was further sought that defendant was not authorised to register the said property to be endowment property. Prayer was also made that the defendant-State be restrained from interfering with the appellant's possession of the property. The trial Court held that the property in dispute was public endowment property and not the private property of the deceased mahant. In view of that, the trial Court considered it not necessary to decide the question as to whether the plaintiff-appellant was duly installed chela of the deceased mahant. All the same, as the parties had led evidence, the trial Court recorded a finding that the plaintiff-appellant had not been proved to be duly appointed chela of the deceased mahant.
3. When the matter came up in appeal before the High Court, the High Court affirmed the finding of the trial Court on the point that the property in dispute belonged to a public institution of a religious and charitable nature. It was also observed that the property in dispute had been rightly entered in the Endowment Register maintained under the Hyderabad Endowment Regulations as endowment property. In view of this finding, the plaintiff-appellant's suit was held to have been rightly dismissed by the trial Court. While dismissing the appeal, the High Court made it clear that it had not dealt with the other question as to whether the plaintiff-appellant was the properly appointed chela of the deceased mahant.
4. We have heard Mr. Desai on behalf of the appellant and are of the opinion that in view of the finding of the High Court that the property in dispute belongs to a public institution of a religious and charitable nature and has been rightly entered in the Endowment Register maintained under the Hyderabad Endowment Regulations as endowment property, it is not necessary to go into the question as to whether the plaintiff-appellant is or is not the duly appointed chela of the deceased mahant. The plaintiff's suit, as would appear from the plaint, was a suit for declaration of his title to the property in dispute. In order to succeed in the suit, the plaintiff sought to establish not only that

the property in dispute was the private property of the deceased mahant but also that he was the duly appointed chela of the deceased mahant. Once a finding is arrived at that the property in dispute was endowment property and was not the private property of the deceased mahant and that finding is no longer open to challenge, the question of going into the other aspect as to whether the plaintiff-appellant is or is not the duly appointed chela of the deceased mahant, would not survive for decision. It was in the circumstances hardly necessary to go into and record a finding on that aspect of the matter. The question as to whether the plaintiff-appellant is or is not a duly appointed chela of the deceased mahant remains open and we express no opinion about that. With these observations, we dismiss the appeal but with no order as to costs.

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