

Mohammad Ibrahim

Vs

City Magistrate, Varanasi

Civil Appeal No. 941-A of 1976

Mohammad Ibrahim

Vs

State of Uttar Pradesh and Others

Criminal Appeals Nos. 432-436 Of 1976

(CJI A.N. Ray, M.H. Beg, Jaswant Singh JJ)

06.12.1976

ORDER

1. The civil appeal and the five criminal appeals are against the judgment and order dated August 8, 1975 of the High Court at Allahabad.
2. The High Court gave common judgment in writ petition and several Criminal Revisions and a Criminal Reference.
3. The High Court allowed the writ petition and quashed the order of the Magistrate dated April 12, 1973 under Section 144 of the Code of Criminal Procedure. The High Court also quashed the orders of the City Magistrate and of the Sessions Judge.
4. The writ petition in the High Court and the several criminal cases related to orders passed under Section 144 of the Code of Criminal Procedure.
5. Both parties urged their rival contentions as to rights to property and religious practices and celebrations. All we need say is that the High Court was in error in dealing with disputes as to these rights in a writ petition. The versions of both sides bristle with disputes and controversies which can be decided only by suit and not in a writ petition. The High Court should not have pronounced finding on the nature and character of rights and properties. The judgment of the High Court is set aside. If any party has any grievance as to rights or property the same may be agitated in a civil suit.
6. The High Court was in error in dealing with the criminal references and pronouncing orders on the same. The High Court noticed that the orders passed under Section 144 of the Code of Criminal Procedure ceased to be operative due to efflux of time. The ground given by the High Court in quashing the orders passed by criminal courts was that the High Court did so in order to avoid any complication in future. In quashing the criminal orders the High Court also gave findings as to rights of parties. The High Court should not have pronounced views on the orders passed by the criminal courts when they ceased to be operative. The High Court was in error in giving findings on rights, title and property. The orders of the High Court in criminal matters are also set aside.

7. The respondents contended that they could enforce an order of injunction which was made in some civil suit. The appellant denied the validity or existence of any order of injunction. We do not desire to express any views.

8. For the foregoing reasons the judgment of the High Court is set aside. The findings by the High Court in the judgment under appeal are also set aside Parties will pay and bear their own costs.

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