

Goswami Shyamavallabh Gopalavaillabh (Dead) By Lrs

Vs

Charity Commissioner, Gujarat State, Ahmedabad

Civil Appeal No. 596 of 1971

(D. P. Madon, A. N. Sen JJ)

26.03.1985

JUDGMENT

AMARENDRA NATH SEN, J. -

1. The question for consideration in this appeal by certificate is whether the Temple of Radha Ballabh situated in Pakhali Pole Raipur, Ahmedabad falls under the category of Public Trust under the Bombay Public Trusts Act, 1950 (hereinafter referred to as the Act) and its properties are public trust properties.
2. After holding the necessary enquiry as required under the Act, the Deputy Charity Commissioner, Ahmedabad Division held that the Temple came under the category of public trust and its properties were public trust properties. The decision of the Deputy Charity Commissioner was confirmed by the Charity Commissioner in appeal. In the revision petition presented to the District Judge, Ahmedabad under Section 72 of the Act by the present appellant, the District Judge held that the Temple was a private Temple and the properties were not public trust properties and the District Judge set aside the decision of the Deputy Charity Commissioner and also the decision of the Charity Commissioner in appeal, allowing the revision petition which was filed by the present appellant before the District Judge. Against the judgment and order of the District Judge, the Charity Commissioner preferred an appeal to the High Court. For reasons recorded in the judgment of the High Court, the High Court allowed the appeal and set aside the judgment and order of the District Judge and the High Court restored the decision of the Deputy Charity Commissioner which was affirmed by the Charity Commissioner in appeal. On the basis of the valuation and as the judgment of the High Court was one of reversal, the High Court granted certificate of fitness to appeal to this Court and this appeal has been accordingly filed.
3. The High Court in a well considered judgment has correctly set out all the material facts and circumstances of this case. The High Court has carefully considered the entire evidence on record, both oral and documentary, and the High Court has noted all the relevant facts and circumstances of the case. The High Court has also dealt with the various contentions which were raised and has discussed the various cases which were cited before the High Court from the Bar.
4. The very same contentions which were raised before the High Court have been raised before us in appeal on behalf of the appellant. The decisions which were cited on behalf of the appellant before the High Court, have also been cited before us. The learned counsel has made elaborate submissions before us seeking to challenge the correctness of the decision of the High Court.
5. We have heard the learned counsel for the appellant at length and we have also heard the learned

counsel for the respondent. We have carefully considered the arguments which were addressed before the High Court and which have been addressed before us. We have also considered the decisions which have been cited before us and which the High Court in its judgment has also carefully considered. We find that the High Court has correctly appreciated the principles of law and has properly applied the same to the facts and circumstances of this case.

6. On a careful and anxious consideration of the submissions made on behalf of the parties, we agree with the view expressed by the High Court. As the very same contentions which were urged before the High Court have been raised before us and as we consider the view expressed by the High Court to be right, we do not consider it necessary to set out at length the facts and circumstances of this case or the various submissions which had been made. The decision of the High Court meets with our approval and we see no reason to interfere with the judgment and order passed by the High Court. The appeal is accordingly dismissed with no order as to costs.

</html