

SUPREME COURT OF INDIA

Kasamsha Ramjanisha Diwan

Vs.

Gujarat State Wakf Board & Anr.

C.A.No.284 of 2016

(Kurain Joseph and R.F.Nariman,JJ.)

18.01.2016

JUDGMENT

(Arising out of SLP (C) No. 4639 of 2015)

Kurain Joseph,J

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1. Leave granted

2. The issues pertain to certain disputes with regard to the BalaPir Trust. In the nature of the order we propose to pass, it is unnecessary to go into the factual matrix of the case. The learned Single Judge though was of the view that the disputes should be worked out before the Civil Court, yet remanded the matter to the Gujarat State Wakf Board. The Division Bench of the High Court as per the impugned judgment dated 01.05.2014, allowed the appeal modifying that part of the order passed by the learned Single Judge and vacated the order on remand.

3. We find from the order dated 03.03.2006 in Special Civil Application No. 14540 of 2004 and connected matters that the learned Single Judge had passed an interim order. The operative portion and to the extent relevant the order dated 03.03.2006 reads as follows :

"2 It appears that there is inter se dispute amongst the Trustees of the Trust. The decision of the WAKF Board is under challenge in the main Special Civil Application and this Court has by interim order stayed the decision of the WAKF Board. It further appears that the Trust is having property, which includes the income of donation, which may be given by the devotees who visit Balapir Dargah. With a view to see that on account of the inter se dispute amongst the Trustees and during the pendency of this petition, the property of the Trust is taken care and not adversely affected, it would be just and proper if the District Collector directs the local Mamlatdar to apply seal to the donation box of the said Dargah.

3. Further, at the interval of every month, the said donation box may be opened by the Mamltardar in presence of the Trustees and the amount, which may be received, shall be credited in a separate bank account of the Trust. Meeting of the Trust shall also be held under the Chairmanship of the Mamlatdar and Trustees and after the resolutions are passed by the Trustees for incurring of expenses for maintenance of the properties of the Trust, the amount which is being received as donation from the donation box shall be utilized for making payment through account payee cheque. For such purpose, there may be the association of Mamlatdar with atleast two Trustees, one may be from the group of the petitioner and the another may be respondent Nos. 2 & 3.

4. The Collector shall authorise the local Mamlatdar for compliance of the aforesaid order and the aforesaid arrangement shall continue until final disposal of the petition.

5. It is made clear that such arrangement shall be only for maintenance and preservation of the property and for incurring routine and day to day expenses but none of the trustees shall take decision for disposal of immovable property of the Trust until final disposal of the petition."

4. We permit the appellant to work out the remedy, as per the liberty granted to the appellant in the impugned judgment, before an appropriate forum and initiate the process within a period of one month.

5. The appellant may also seek appropriate interim relief from the authority concerned.

6. However, in the interest of both the parties, we are of the view that the interim order which we have extracted above shall continue for a period of eight weeks so as to enable the appellant to work out the remedies. Ordered accordingly.

7. We make it clear that we have not considered the rival contentions of the parties and we have not expressed any opinion on the merits of the case. It will be open to the parties to raise all available contentions before the forum concerned. It is for that forum to pass appropriate and required orders including any order on interim relief.

8. The appeal is disposed of as above with no order as to costs.