

SUPREME COURT OF INDIA

Mahant Ramanand

Vs.

State of Uttranchal

C.A.No.3881 of 2009

(N.V.Ramana and Dr.D.Y.Chandrachud,JJ.)

22.09.2017

JUDGMENT

Dr.D.Y.Chandrachud,J.,

1. In the writ proceedings before the High Court of Uttarakhand, an order dated 1 September 2005 of the Collector, Haridwar was challenged. The High Court by its judgment dated 15 May 2007 dealt with two writ petitions. The decision on the first has been dealt with in the judgment delivered today in *kutchi Lal Rameshwar Ashram Trust Evam Anna Kshetra Trust Thr. Devshi Patel v Collector, Haridwar*¹.

2. In the present case, proceedings were initiated before the Collector on a report submitted on 4 August 2004 by the Inspector in-charge Kotawali, Haridwar stating that Mahant Dharmanand, a disciple of Amritanand (resident of Pili Kothi Bhopatwala, Pargana Jwalapur, District Haridwar) was murdered by unknown persons and no disciple or successor of the deceased was reported. The Tehsildar in a report dated 26 August 2004 stated that the name of Dharmanand was entered in the revenue records since 2004. The Tehsildar opined that there being no legal heir, the property stands vested in the state government by escheat.

3. Notices were published in the newspapers by the Collectorate, calling for objections. The Collector noted in his order that among the applications received in response to the notice was one by a person by the name of Dayasagar stating that the saints of the Chidanandji Sect are the true and lawful heirs. The petitioner submitted his objection claiming to be a disciple of late Amritanand, Mahant Dharmanand and stated that he was the occupier of the Garibdasi, Chidanand Ashram, Pili Kothi Bhopatwala, Haridwar. The petitioner claimed that he was the guru bhai of late Mahant Dharmanand and that during the lifetime of Amritanand, the names of Dharmanand and the petitioner were included in the ration cards. According to the petitioner, he was made Gaddinashin following the customs and practices of the Pilikothi, Garibdasi Sant Samaj and Sant Mandal, Haridwar. The Collector noted that Dharmanand was murdered by unknown persons and a criminal case was registered under Section 302 of the Penal Code. Following the death of Dharmanand, it was found that he had not left behind a natural heir and there were a number of people disputing the property of Chidanand Ashram.

The Collector noted that in order to obviate a breach of law and order, the property was taken into government custody.

4. The Collector has basically entered two findings in his impugned order. Firstly, the Collector noted that the petitioner staked a claim to succession on the basis that as the guru bhai of Dharmanand who was a sanyasi, he had stepped into his shoes under the customs of the sect. On this aspect, the Collector has held that there is no evidence to indicate that Dharmanand had in fact renounced the world so as to be called a sanyasi in the true sense of the term. The petitioner, the Collector noted had not established any tradition or practice on the basis of which he claimed to succeed to Dharmanand. Since the status of Dharmanand as sanyasi was held not to be proved, the Collector rejected the case of the petitioner to succeed on the basis of tradition or usage.

5. Alternately, the Collector held that even on the hypothesis that Dharmanand was a sanyasi, the petitioner failed to establish his own status as his heir. The ration card which the petitioner produced was found to have several interpolations which cast serious doubt on its authenticity. The Collector also noted that the proceedings register which was produced by the petitioner contained material omissions and had blank pages. The Collector noted that the petitioner, during the course of his cross-examination had no knowledge of when Dharmanand was murdered. He had no information on the establishment of the Ashram nor was he aware of the persons who resided with Dharmanand. The evidence of DW2 Krishnanand was that after the death of Amritanand it was the petitioner who became the Mahant. This was in contrast to the case of the petitioner which was that he had succeeded Dharmanand. DW3, Swamy Gyananand stated that after the murder of Dharmanand in May 2004, the last rites were performed by his brother whereas according to the petitioner, they were performed by other saints. The Collector has arrived at the conclusion that the case set up by the petitioner is patently unreliable and suffers from material contradictions. Holding that the property has vested in the state government under the doctrine of escheat, the Collector has directed that it be mutated in the name of the state.

6. When leave was granted in the present Civil Appeal together with the companion appeal on 12 May 2009 an order of status quo was issued.

7. Having heard the learned Counsel and upon perusing the record, we are unable to find that the appellant has established prima facie any claim in respect of the property in dispute which is described as Khasra No. 19-M admeasuring as 0.410 hectare. The petitioner was one of the two accused put up for trial in Sessions Trial No. 93 of 2007 on a charge under Section 302 read with Section 120B of the Penal Code. By a judgment dated 31 May 2013, the Second Additional Sessions Judge, Haridwar acquitted both the accused on the ground that there were no eye-witnesses to the incident and the prosecution had not been able to establish his case on the basis of circumstantial evidence. In the submissions which have been urged on behalf of the first and second respondents, it has sought to be urged that the Appellant had actively participated in the conspiracy resulting in the murder of Swamy Dharmanand and had played a prominent role in the murder. Evidently, such an inference cannot be drawn since a copy of the judgment rendered by the Second Additional Sessions

Judge, Haridwar acquitting the petitioner has been placed on the record. The Collector has found that :

“(i) As a matter of fact, it had not been established that Dharmanand had renounced the world and had become a Sanyasi; and

(ii) In any event, the claim of the Petitioner to have succeeded Dharmanand, even assuming that Dharmanand was a Sanyasi, is not established.”

8. We are at this stage satisfied that the Appellant has not produced any material in these proceedings to support the claim. However, we leave it open to the Appellant to pursue such claims which he has before a competent civil forum. In the event that the Appellant does so, the findings contained in the order of the Collector or of the High Court will not be conclusive upon the issues raised. To enable the appellant to pursue his remedies in law, the interim order shall continue for a period of four weeks.

9. The Civil Appeal is disposed of in the above terms. There shall be no order as to costs.

Judgment Referred.

¹*C.A.No.3878 of 2009*