

Court No. - 7

Case :- WRIT - C No. - 9085 of 2023

Petitioner :- C/M Shri Digamber Jain Ayodhya Tirth Kshetra Committee, Faizabad Thru. General Secy. And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Institutional Finance, Lucknow And 4 Others

Counsel for Petitioner :- Pradeep Tiwari

Counsel for Respondent :- C.S.C., Mahendra Bahadur Singh, Vikas Singh

Hon'ble Abdul Moin, J.

1. Heard Sri Sandeep Dixit, learned Senior Advocate assisted by Sri Pradeep Tiwari, learned counsel for the petitioner, Sri P.K.Singh, learned Additional Chief Standing counsel appearing on behalf of the respondents no. 1 to 3 and Sri M.B.Singh, learned counsel appearing on behalf of the respondents no. 4 & 5.

2. With the consent of learned counsel appearing on behalf of the contesting parties, the instant writ petition is being finally decided.

3. All the learned counsels contend that the facts of the case have been set forth in detail in the order dated 17.10.2023 which for the sake of convenience is reproduced below:-

1. Heard Shri Sandeep Dixit, learned Senior Advocate assisted by Shri Pradeep Tiwari, learned counsel for the petitioners, learned Standing Counsel appearing for the respondents no. 1 to 3 and Shri Mahendra Bahadur Singh and Shri Vikas Singh, learned counsels appearing for the respondents no. 4 and 5.

2. Under challenge is order dated 14.07.2023, a copy of which is annexure 1 to the petition, passed by the respondent no. 2 whereby the appeal filed by the petitioners has been rejected. Also under challenge is the order dated 30.12.2022, a copy of which is annexure 2 to the petition, passed by the respondent no. 3 whereby the complaint filed by the petitioners under provisions of Section 12D of the Societies Registration Act, 1860 has been rejected.

3. The contention of learned counsel for the petitioners is that the petitioner society was registered in the year 1956. At the time of registration its registration number was 182/1956. Subsequent thereto the registration number of the petitioner society was changed to I-66363 in the year 1981. As per the memorandum as well as the bye-laws, apart from all the temples which the petitioner society is managing is also the Ratanpuri Digambar Jain Temple.

4. It is contended that the respondent no. 4 society, a new society, was registered on 29.03.2022 for the purpose of managing the Ratanpuri Digambar Jain Temple. The petitioners filed an application under Section 12D of the Act 1860 contending that the respondent no. 4 society has been registered wrongly and by misrepresentation and fraud. The respondent no. 3 vide order impugned dated 30.12.2022, a copy of which is annexure 2 to the petition, has rejected the said application. The appeal filed against the said order has also

been rejected vide the order dated 14.07.2023 and hence the instant writ petition.

5. The contention of learned Senior Advocate appearing for the petitioners is that a perusal of the order dated 30.12.2022 would indicate that although the petitioners had filed the statement of accounts for the year 1977-78 yet the same has not been considered on the ground that it is an uncertified copy / typed copy. The argument is that once the competent authority was seized of the fact that the new registration number of the society is I-66363 and its file had also been perused, as emerges from a perusal of the order impugned dated 30.12.2022 (at page 65) yet after perusal of file the competent authority has indicated that no details are indicated pertaining to Ratanpuri Digambar Jain Temple which would be totally belied from records in as much in case the records are to be summoned all the statement of accounts would in fact be available in the aforesaid file of registration number I-66363. It is thus contended that the competent authority failed to peruse the records.

6. On the other hand, Shri M.B. Singh, learned counsel appearing for the respondents no. 4 and 5 argues that admittedly the petitioners only filed the statement of accounts for the year 1977-78 which has been found to be uncertified / typed. As regards the statement of account for registration number I-66363 the records had been perused by the competent authority and once no statement of accounts were found in file pertaining to the temple in dispute i.e. Ratanpuri Digambar Jain Temple, consequently no error has been committed by the competent authority while rejecting the application filed by the petitioners.

7. However prior to proceeding further this Court would require the competent authority i.e. respondent no. 3 to produce the records bearing registration number I-66363 so as to find out as to whether the statement of accounts pertaining to Ratanpuri Digambar Jain Temple for the years 1981 onward are indicated in the records.

8. Consequently, list this case on 31.10.2023 as fresh, on which the date the records shall be produced by learned Standing Counsel appearing for the respondents no. 1 to 3."

4. Sri P.K.Singh, learned Additional Chief Standing counsel has produced the records..

5. Sri P.K.Singh, learned Additional Chief Standing counsel states upon perusal of records that for the years 1981-1982, 1982-1983 & 1983-1984 in the income side it has categorically been recorded that certain income has been received and recorded in the following words " Bhandar Ratan Puri Mandir". On the expense side, it has been indicated as " Ratan Puri Khate".

6. Considering the aforesaid, it is thus apparent that the finding given by the Deputy Registrar in the order impugned dated 30.12.2022 at Page 65 that even after perusal of records, in the statement of accounts from the statement of income and expenditure nowhere Ratanpuri/Ronahi Jain Terth has been indicated is totally belied from records. It could be that on the expenditure side, the details have not been clearly mentioned but obviously the expenditure would relate to the income and when from the details of income itself, it is apparent that income from Ratanpuri Mandir finds place consequently, the finding given

by the Deputy Registrar in his order appears to be totally belied from records and cannot be said to be legally sustainable in the eyes of law.

7. Responding to that, Sri M.B.Singh, learned counsel appearing on behalf of the respondents no. 4 & 5 states that a further perusal of the order impugned would indicate that the petitioners only produced the balance sheet for the years 1977 to 1978 which was not found in the records which is also the finding recorded by the Deputy Registrar that the said papers are not available in record and hence there is no error in the order impugned. He further argues that in the balance sheet filed by the petitioners for the period from 1986 to 2022 there is no mention of the said Mandir which finding also finds specifically recorded in the order impugned.

8. It is also contended that the society of the petitioners has been registered on 03.04.1981 and in the objections filed by the petitioners before the Deputy Registrar it has also been admitted that the society has been registered on 03.04.1981 and the registration number has been indicated as 61/1981-1982.

9. However, once the records have been summoned by the Court and the learned Additional Chief Standing counsel has categorically stated that for the aforesaid period from 1981-1982 till 1983-1984 "Bhandar Ratanpuri Mandir" stands duly recorded, as such, the finding recorded by the Deputy Registrar in the order impugned gets patently vitiated in the eyes of law. Had it been a case that the Deputy Registrar had recorded that the authenticated records of the aforesaid period are not available that would have been a different aspect of the matter but once a categorical finding has been given by the Deputy Registrar in the order impugned which is totally belied from records, as per the statement given by Sri P.K.Singh, learned Additional Chief Standing counsel appearing on behalf of the State who has himself gone through the records consequently, this Court finds that totally perverse finding has been recorded by the Deputy Registrar while passing the order impugned.

10. Keeping in view the aforesaid discussion, the writ petition is allowed. The order impugned dated 30.12.2022 followed by the appellate order 14.07.2023, copies of which have been filed as annexures 2 & 1 to the writ petition

respectively are quashed.

11. The matter is remitted to the respondent no. 3 to pass a fresh order after due opportunity of hearing to all the concerned parties in accordance with law and the relevant rules.

12. Let an order in this regard be passed within a period of four weeks from the date of receipt of a certified copy of this order.

13. A suggestion has been given by the learned counsels appearing on behalf of the contesting parties that as both the parties are before this Court as such, a convenient date may be fixed by this Court itself. Both the parties agree that the matter may come up before the Deputy Registrar on 30.11.2023. No notice be issued by the Deputy Registrar to the parties concerned as the date has been fixed with the mutual consent of the parties concerned.

Order Date :- 7.11.2023

Pachhere/-