

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 28 of 2017**

Raghuvansh Mani Tiwari S/o Late Shri Satyanarayan Tiwari, Aged About 73 Years R/o
Sadar Bazar, Bilaspur, Tahsil & Dist. Bilaspur (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through Secretary Public Trust, Mahanadi Bhawan,
Raipur, Tah. & Dist. Raipur (Chhattisgarh)
2. Collector, Rewa/ Registrar, Public Trust, Administrator Shri Lakhshaman Bag
Sansthan, Rewa (Madhya Pradesh)
3. Collector, Bilaspur/ Registrar, Public Trust, Tah. & Dist. Bilaspur (Chhattisgarh)
4. Shri Lakshaman Bag Sansthan, Rewa, Through Administrator Lakshaman Bag
Sansthan, Rewa (Madhya Pradesh)

---- Respondents

For Appellant	: Shri H.V. Sharma, Advocate.
For Respondent/State	: Shri Arun Sao, Deputy Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Judgment on Board**Per Deepak Gupta, Chief Justice****25/01/2017**

1. This appeal by the Appellant is directed against the judgment dated 16.12.2016 passed by Learned Single Judge of this Court in Writ Petition (C) No.3134 of 2016 whereby the Learned Single Judge has dismissed the writ petition filed by the Petitioner and also held him liable to pay Rs.50,000/- as exemplary cost.
2. Briefly stated facts of the case are that there is a temple known as 'Laxminarayan Temple' situated at Sadar Bazar, Bilaspur. This temple was dedicated to the deity by two ladies and a dispute arose which is the body

authorised to manage this temple. Civil Suit No.78-A of 1967 was filed in the year 1967 by one Shri 1008 Shri Swami Raghwacharya Ji Maharaj against three persons and the Registrar Public Trust, Bilaspur. Out of four defendants, one was the Petitioner herein. In the said suit, it was held that the two ladies while dedicating the temple to the deity handed over the management of the same to a trust known as 'Laxmanbagh Sansthan, Rewa'. The plaintiff, Shri 1008 Shri Swami Raghwacharya Ji Maharaj claimed to be the sole manager and trustee of the Laxmanbagh Sansthan, Rewa. The Learned Trial Court decreed the suit in following terms:-

“20. In result, the suit succeeds and is decreed with costs. It is hereby ordered and declared that the plaintiff alone is the manager and working trustee of the temple of Shri Laxminarayan Bahgwan and its property situated at Sadar Bazar, Bilaspur, and that the order passed by the Registrar Public Trust in Rev. Case No. 1-B-113(i)/64-65 on 18.5.1965 is illegal and void, and further the defendant no. 4 is directed to correct its records accordingly defendant no. 1, 2 and 3 shall handover the charge to the plaintiff. The defendants 1, 2 and 3 will bear their own costs and the costs of the plaintiff. Defendant No.4 will bear its own costs. Counsel's fee as per schedule be given if already certified.”

3. In the same suit, it was found that the Petitioner had no right to function as 'Pujari' and an order was passed directing his removal by Respondent No.3 on 5.9.2008. The Petitioner challenged this order in various proceedings. He had filed civil suit and also filed proceedings before the Board of Revenue but he did not succeed there and thereafter he filed writ petition before this Court. The Learned Single Judge dismissed the writ petition and held that it was frivolous and vexatious in nature in following terms:-

“6. The writ petition is frivolous and vexatious. I say so because the rights of the parties have already been settled by decree passed by the Civil Court way back in 1969 and thereafter the charge has been handed over to the Pujari in view of the order passed by the Collector, Rewa (Madhya Pradesh). The petitioner's prayer for temporary injunction has already been rejected by the Court of 3rd Civil Judge, Class-II, Bilaspur.

7. In view of the determination by the Civil Court, there is no legal right in favour of the petitioner to continue to work as Pujari and for possession of the temple. He is unnecessarily litigating in the matter in complete defiance and violation of the decree passed by the Civil Court.

8. Since the petition is wholly unnecessary and vexatious, the same is liable to be and is hereby dismissed with costs quantified to the tune of Rs.50,000/- (Rupees Fifty Thousand Only). The petitioner shall deposit the cost with the Collector, Bilaspur, within a period of two months from today, which shall be paid by the Collector, Bilaspur to the deity of Laxmi Narayan Temple, Sadar Bazar, Bilaspur.”

4. We are in total agreement with the finding of the Learned Single Judge that the Petitioner cannot be permitted to keep choosing the forum of his choice. He, having filed a civil suit, cannot be allowed to turn around and file writ petition before this Court. Therefore, we agree with the finding of the Learned Single Judge and dismissed the appeal holding that it is frivolous and vexatious in nature.

5. At this stage, Learned Counsel for the Appellant submits that the Appellant is more than 70 years old and it would be difficult for him to pay Rs.50,000/- as exemplary costs. Therefore, we are inclined to reduce the costs imposed upon the Appellant. The costs are reduced from Rs.50,000/- to Rs.10,000/-.

6. With the aforesaid modification, writ appeal stands disposed of.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE