

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 612 OF 2018
WITH
CIVIL APPLICATION No. 2243 OF 2017
IN
FIRST APPEAL (St.) No. 13530 OF 2015

Sudhakar Laxman Palav & Ors. ... Applicants
Vs.
Laxman Dharmaji Palav & Ors. ... Respondents

Mr. M.J. Jamdar, Advocate for the applicants.
Dr. D.S. Hatle i/b. Mr. Deepak Jamsandekar, Advocate for the
respondent nos. 1 and 2.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE:14th February, 2018.

P.C.:

This Application is filed seeking stay to the judgment and order dated 30th November, 2006 passed by the Assistant Charity Commissioner, Sindhudurg in Inquiry Application No. 1 of 2003 filed under Section 50A(1) of Bombay Public Trust Act and so also for framing the scheme and the judgment and order dated 2nd May, 2014 passed by the learned District Judge-1, Sindhudurg at Oros in Civil Miscellaneous Application No. 95 of 2006 be stayed. It is also prayed that the respondents be restrained from managing the affairs of Shri Devi Shantadurga and Ravalnath Mandir Trust, Vadachapat.

2. The learned counsel for the applicants submitted that it is the private temples of the applicants and the applicants' ancestors have filed Regular Civil Suit No. 248 of 1912 for declaration and the said suit was decreed on 3rd January, 1916 by the 2nd Class Sub-Judge at Malvan wherein it was held that plaintiff, i.e., all Palavs of Vadachapat are declared to be the sole vahivatdars of the several temple in suit. If it is therefore ordered that defendants(Ravuls) to continue in possession of istad as per Exhibit 44. He submitted that the declaration was not considered by the Assistant Charity Commissioner and the Appellate Court. He submitted that they have received a notice from the Police Commissioner wherein it is informed that the respondents are going to demolish the temples and therefore, this action of the respondents be stayed.

3. The learned counsel for respondent nos. 1 and 2 opposed this Application and submitted that the respondents are the decree holders and they are not going to demolish the temples permanently but the temples are in dilapidated condition and requires renovation, so they are going to repair the temples and for that purpose, some portion is required to be demolished. The learned counsel submitted that the respondents are not going to replace the original deities.

4. Heard the submissions. Perused the impugned judgment and orders and the original application. It is to be noted that the judgment and order passed in Regular Civil Suit No. 248 of 1912 is in favour of the Palavs and it is against the defendants, namely, Ravuls. In the present Appeal, the appellants as well as respondents are also Palavs. Only respondent no.3-Ramchandra Narayan Parab and respondent no. 4-Daji Govind Hadkar are not Palavs. Ramchandra Parab is from Taluka Kudal and not from Vadachapat but Daji Hadkar is from Vadachapat and this judgment *prima facie* is not applicable. The respondents are the decree holders and the scheme produced by them is accepted and framed by the Assistant Charity Commissioner. The said order is confirmed by the District Court and hence this Appeal. However, during the pending of the Appeal, the order of the Assistant Charity Commissioner was not stayed. Hence, I do not find any reason to stay the impugned order. So also, the renovation/repairs of the temples also cannot be stopped, as the original deities are going to be kept in tact in a newly constructed temples.

5. Civil Applications are disposed of.

(MRIDULA BHATKAR, J.)