

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 04.12.2019

Order Passed on : 28/01/2020

W.P.(227) No. 880 of 2015

- Radha Krishna Mandir Village Sidhori, Through Sarwarakar Lakhanlal Sharan, S/o Shri Sampat Sahu, Age About 75 Years, R/o Village Sidhori, Tahsil Rajim, District Raipur, Chhattisgarh, Civil And Revenue District Raipur, Chhattisgarh

---- Petitioner

Versus

1. Ramkhilawan Sahu S/o Late Gabhruram Sahu
2. Madhu Shyam Sahu, S/o Late Gabhruram Sahu
(Both are R/o Village Sidhori, Tahsil Rajim, District Raipur, Chhattisgarh)
3. Smt. Kumari Bai Sahu, W/o Shri Jeetram Sahu, R/o Village Semra, Tahsil Kurud, District Dhamtari, Chhattisgarh
4. Smt. Hirabai (Sada Bai), W/o Shri Bhokluram Sahu, R/o Choubeybandha, Tahsil Rajim, Post Baronda, District Raipur, Chhattisgarh
5. Smt. Geeta Sahu, W/o Shri Umend Sahu, R/o Village Devri, Tahsil Rajim, District Raipur, Chhattisgarh
6. Smt. Aapa Bai Sahu, R/o Village Charoda, Tahsil Rajim, District Raipur, Chhattisgarh
7. State Of Chhattisgarh, Through The Secretary, Ministry Of Revenue, Mantralay, Capital Complex, Naya Raipur District Raipur, Chhattisgarh
8. The Collector, District Raipur, Chhattisgarh

---- Respondents

For Petitioner : Mr. B.P. Sharma with Mr. M.L. Sakat,
Advocates.

For respondents No.7 & 8 : Mr. Shrikant Kaushik, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

28/01/2020

1. This petition has been brought challenging the order dated 22.08.2015 passed by the C.G. Revenue Board in Revenue Revision Case No. RN/14/R/A-6/964/2006 by which the order of Tahsildar Rajim dated 01.04.2002 which was confirmed by S.D.O. Gariyaband vide order dated 31.05.2004 and further confirmed by the Upper Collector Gariyaband in order dated 16.06.2006 was upheld, in which the name of Collector was entered as Manager along with the Sarvarakar of the disputed property.
2. Learned counsel for the petitioners submits that the Radha Krishna Mandir is a temple managed by this Sarvarakar- Shri Lakhanlal Sharan. An application was filed by one Aimanlal Sahu on 09.07.1998 before the S.D.O.-Cum-Registrar, District- Gariyaband to declare the Radha Krishna Mandir as Public Trust. The case was registered as Case No.02/B/113(4) year 1995-96. The application was rejected vide order dated 09.07.1998 and it was declared the Radha Krishna Mandir is a private trust. Subsequent to that, without any rhyme or reason, the name of Collector has been entered as Manager of the Radha Krishna Mandir, along with Sarvarakar in the revenue records and application was filed before Tahsildar Gariyaband praying for deletion of the name of Collector from revenue records but the same was rejected vide order dated 01.04.2002. The appeal preferred before Upper Collector, Gariyaband was also dismissed vide order dated 16.06.2006. The petitioner then challenged the orders of the revenue authorities before the Board of Revenue which has been dismissed by the impugned

order.

3. It is further submitted that it was very clearly held by the order dated 09.07.1998 passed by S.D.O./Registrar/public trust that the Radha Krishna Mandir is a private trust, therefore, the entry of the name of Collector as Manager in the revenue records is totally unreasonable and the grave error on the part of the revenue authorities and it is also an Act in violation of fundamental rights of the petitioner. The M.P. High Court has held in the case of **Sadashiv Giri & Ors. Vs. Commissioner, Ujjain & Ors.** reported in **1985 R.N. 317** that provisions of Public Trust Act, 1951 are applicable only to public trusts. The private temples are excluded from being governed by these provisions, therefore, a Collector cannot be the Manager of the private temple.
4. Reliance has also been placed on the judgment of M.P. High Court in case of **State of Madhya Pradesh and Ors. Vs. Shri Ranchor Teekam Mandir through Swami and Vyavasthapak Ranchordas Guru Kashiram (Dead) through LRs.** reported in **2013 (2) MPLJ 642**, in which it was held that change in revenue record cannot be made without holding inquiry and also without notice to the person interested. It is submitted that this issue was discussed in the Second Appeal No.437/2008 between Hari Prasad (dead) through LRs decided on 29.11.2019 with the order of the State Government dated 11.01.1988 directing the entry of name of Collector as Manager in the Government controlled temples was discussed. The Coordinate Bench of this Court has relied upon the judgment of M.P. High Court in ***Sadashiv Giri*** (Supra) and holding that the circular of the Government was with respect to the Government controlled temples only and not to the private temples. It is also submitted that same view has been reiterated by the M.P. High Court in the case of **Hargovind Vs. State of M.P.** reported in

1999 RN 243, therefore, it is prayed that the petition may be allowed and impugned orders be set aside and further directions be issued for deletion of the name of the Collector as Manager in the revenue records along with the Sarwarakar of Radha Krishna Mandir.

5. Respondent No.1 to 6 are not represented.
6. Learned counsel for the State appearing for respondent No.7 and 8 submits that it was for the purpose of better management of the religious institutions. The State Government issued the circular dated 11.01.1988 directing the name of Collector be entered as Manager on the properties of such temples. Therefore, this shows the good intention of the State Government and no harm has come to the petitioner because of the entry made in the revenue records, hence, there is no substance in this petition which may be dismissed.
7. Heard learned counsel for the parties and also perused the documents present.
8. On perusal of the order dated 09.07.1998 passed by the S.D.O./Registrar/Public Trust in case No.02/B/113(4) year 1995-96. The learned Registrar has observed that there are ingredients to show that the Radha Krishna Mandir is a private trust, vis-a-vis that the statue of the idol has been purchased and established by the Sarwarakar of that temple and similarly, the temple was constructed about 40 years before that date, and the expenditure was made by the Sarwarakar of the same temple. It was also observed that the land belonging to temple was also purchased by the Sarwarakar of the same temple from the vendor Nathuram Brahman on 03.02.1965, apart from that the temple is situated in the boundaries of the house of the Sarwarakar himself. This order has not been challenged because of which it has attained finality

and on this basis, it can be said that the status of the petitioner temple still holds to be a private trust.

9. The entry of the name of Collector along with Sarvarakar as Manager of the said trust is being disputed by the petitioner side for which the only reason or ground mentioned by the respondent side is the circular of the State Government dated 11.01.1988. On plain reading of the said circular, it is very much clear that this circular and order of the State Governments speaks of the Government controlled temples and other religious institutions and not the private temples and the private trusts. The view laid down by the M.P. High Court in ***Sadashiv Giri*** (Supra) still holds as it has been reiterated in the subsequent pronouncement made by the same Court. Therefore, it is found that the entry of the name of Collector as Manager along with Sarvarakar in the revenue records over the property of the petitioner temple is not in accordance with any provisions under C.G. Public Trust Act, 1951 and at the same time, is also not in accordance with the circular of the State Government dated 11.01.1988. Hence, the entry of the name of Collector as Manager along with the Sarvarakar in the revenue records is totally illegal. The orders passed by the revenue authorities and upheld by the Revenue Court are arbitrary as well as illegal, therefore not sustainable. Hence, this petition is allowed. The impugned order and the orders confirmed by the impugned order are set aside and it is directed that the name of the Collector entered as Manager along with Sarvarakar of Radha Krishna Mandir situated in village Sidhori be deleted from the revenue records within a period of one month from the date of passing of this order.

Sd/-
(Rajendra Chandra Singh Samant)
Judge