

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO. 1 OF 2019

Mahant Ramanpuri Maharaj Guru Mahant Dattapuri Maharaji
Vs.
Ashok Nagorao Ruikar and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri N.S. Deshpande, Advocate h/f Shri G.D. Kale, Advocate for the
appellant.
Shri A.S. Dhore, Advocate for the respondents.

CORAM : AMIT B. BORKAR, J.
DATE : 09th AUGUST, 2021.

1. By this appeal under Section 100 of the Civil Procedure Code, the appellant who is the original plaintiff has approached this Court challenging judgment and decree passed by learned Lower Appellate Court thereby dismissing the suit of the appellant/plaintiff seeking relief of injunction not to disturb the plaintiff from exercising his right as Mahant.

2. The appellant had filed suit for injunction on the basis of two documents; first is the Will executed by erstwhile Shri Mahant Dattapuri Devasthan and second is letter of authority executed by worshipper of the Devasthan which is at Exh.70.

3. The learned trial Court relying on Exh.70, decreed the suit for plaintiff granting injunction in favour of the plaintiff.

4. The defendants being aggrieved by the judgment and decree passed by the trial Court filed appeal before the District Judge, Yavatmal. The learned Principal District Judge by the impugned judgment and decree, allowed the appeal of the defendants thereby dismissing the suit of the plaintiff.

5. The learned Lower Appellate Court while allowing the appeal held that the plaintiff is claiming to be Mahant in relation to a trust registered under the provisions of the Maharashtra Public Trusts Act, 1950. The learned Lower Appellate Court recorded a finding that the Will executed in favour of the plaintiff has not been proved. The learned Lower Appellate Court held that Exh.70 which is the document executed in favour of the plaintiff has been signed by 18 persons who had no authority to appoint the plaintiff as Mahant of the Devasthan, and therefore the appointment of the plaintiff is without authority.

6. The plaintiff being aggrieved by the judgment and decree of the learned Lower Appellate Court has filed the present appeal.

7. The learned counsel for the appellant submitted that the defendants have not specifically denied the contention in Paragraphs 1 and 2 of the plaint which

amounts to admission of the case of the plaintiff, and therefore the learned Lower Appellate Court was not justified in allowing the appeal of the defendants. He submitted that it is the practice followed in Devasthan that Mahant is appointed by worshipers and followers of Devasthan. It is submitted that the document of authority below Exh. 70 confers right on the plaintiff to perform worship of the Devasthan.

8. Learned counsel for the respondents submitted that there is specific denial in relation to the Paragraphs 1 and 2 of the plaint. He invited my attention to the paragraph 9 of the judgment of the lower Court wherein the learned Lower Appellate Court has considered the contents of the appointment letter at Exh. 70 and has recorded a finding that the appointment letter is executed by the persons having no authority. He therefore submitted that there is no substantial question of law involved in the present appeal.

9. I have carefully considered the judgment and decree passed by the learned Lower Appellate Court. I have also scrutinized the pleadings of the parties and the material placed on the record by the appellant in the form of Pursis dated 05/07/2021.

10. On consideration of the impugned judgment, it appears that it is undisputed fact that the Devasthan is being administered by a Trust registered under the provisions of the Maharashtra Public Trusts Act, 1950. It is undisputed fact that the defendant Nos. 1 to 4 are the trustees of the Devasthan. It is also undisputed fact that the letter of authority below Exh. 70 has been executed by the followers and worshipers of the Devasthan. It is also undisputed fact that the alleged Will executed in favour of the plaintiff has not been proved by the plaintiff. On scrutiny of the contents of Exh. 70, I am of the opinion that the persons who have executed the letter of authority in favour of the plaintiff are neither the trustees nor the persons appointed by the Charity Commissioner. The plaintiff has not brought on record the procedure to be followed for appointment of Mahant. Since it is the plaintiff who is claiming right of injunction on the basis of letter of authority, it was the duty of the plaintiff to bring on record the material to show the procedure to be followed while appointing Mahant in relation to Devasthan. Only the document on which the plaintiff relies to seek injunction is Exh. 70. Since Exh. 70 has been executed by the persons who are neither the trustees nor the persons appointed by the Office of the Charity Commissioner, the plaintiff has failed to prove his right to seek injunction against

defendants not to disturb plaintiff from performing his right of worship.

11. In view of the above discussion, there is no substantial question of law involved in the appeal. The appeal is therefore **dismissed**. Pending application(s), if any, stands **disposed** of.

JUDGE

C.L.Dhakate