

Bapusaheb Rama Gurav and Ors.	...	Petitioners
versus		
Pramod Vasant Gurav and Ors.	...	Respondents

Mr. Nikhil N. Pawar, for Petitioners in both petitions.
Mr. Shashank C. Mangle for Respondent No.1 in WP No.13378 of 2024 and for Respondent No.7 in WP No.13379 of 2024.
Mr. Tanmay M. Shembavanekar h/f Mr. Suhas S. Deokar for Respondent Nos.2 to 7 in WP No.13378 of 2024 and for Respondent Nos.1 to 6 in WP No.13379 of 2024.

DATE : 8 APRIL 2025

P.C.

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally.
2. These Writ Petitions assail the legality, propriety and correctness of the judgment and order dated 2 September 2024 in Misc. Civil Appeal Nos.139 of 2024 and 138 of 2024 passed by the learned District Judge, Kolhapur, thereby allowing the appeals and setting aside the order dated 18 June 2024 passed by the trial Court in RCS No.57 of 2024, whereby the Respondents herein were restrained from causing obstruction to the Plaintiffs – Petitioners

in worshiping of gods – Shri Ramling and Shri Dhuloba and the management of the temples (Devasthan).

3. Background facts leading to these Petitions can be summarized as under :

3.1 For the sake of convenience and clarity, the parties are hereinafter referred to in the capacity in which they are arrayed in RCS No.57 of 2024.

3.2 Plaintiff Nos.1 to 6 and Defendant Nos.1 to 6 are the members of Gurav Community. Four temples of Gods, namely, Shri Ramling, Shri Dhuloba, Shri Hanuman and Ekvira and Niranjan Math are located at Village Alte, Tal Hatkangale, Dist. Kolhapur. The forefathers of the Plaintiffs and Defendant Nos.1 to 6 have been worshiping the Gods and performing puja and managing the affairs of the temples and also receiving offerings from the devotees.

3.3 There are four branches who worship the Gods and perform puja and receive offerings in those temples as per the rotation. A rotation chart of the said four branches indicating turn of each branch to worship each of the four temples has been followed.

3.4 The Plaintiffs who represent the second branch approached the Court with a case that in accordance with the rotation chart, the Plaintiffs were to manage the affairs of the temples of Shri Ramling and Shri Dhuloba during the period 8 May 2024 to 27 April 2025. They were managing the affairs of

the temple Niranjan Math from 21 April 2023 to 8 May 2024. Defendant Nos.1 to 6 who represent the first Branch and Defendant No.7 who has no concern with the four branches, allegedly caused obstruction to the performance of the Puja at Niranjan Math on 8 May 2024 and asserted that he would not allow the Plaintiffs to avail their turn to perform Puja and render services at Shri Ramling and Shri Dhuloba temples during the period 8 May 2024 to 27 April 2025. Hence, the suit for injunction.

3.5 The Plaintiffs preferred an application for temporary injunction. By an order dated 18 June 2024, the learned Civil Judge was persuaded to partly allow the application and restrain Defendants from causing obstruction to the Plaintiffs in the worship of, and rendering the services and accepting offerings at, Shri Ramling and Shri Dhuloba temples during the period 8 May 2024 to 27 April 2025. The trial Court placed reliance on the rotation chart to return a finding that the Plaintiffs were entitled to perform Puja at Shri Ramling and Shri Dhuloba temples during the year 2024-25.

3.6 In the appeal preferred by Defendant Nos.1 to 6 and 7, the learned District Judge was persuaded to reverse the order passed by the trial Court. Learned District Judge found that there was suppression of facts on the part of the Plaintiffs. No reference was made to a prior suit instituted by the Plaintiffs which was subsequently withdrawn and the fact that Maharashtra Devasthan Samiti had passed an order on 22 May 2018, thereby giving right

to Defendant No.7 to worship Shri Ramling temple for six months after every 12 years. Thirdly, the material on record, especially the Charge Slip (Japta) indicated that the Defendants were entrusted with the management of the respective temples for the relevant period. On 9 May 2024, Japta was handed over to Defendant No.7 by Kashinath Gurav under the Charge Slip. The trial Court had not considered the aforesaid material.

3.7 Being aggrieved, the Plaintiffs have approached this Court.

4. Mr. Pawar, learned Counsel for the Petitioners, would urge that the learned District Judge was not at all justified in interfering with the discretionary order passed by the trial Court. The trial Court on the basis of objective material, especially the rotation chart, had passed an order to restrain the Defendants from causing obstruction to the rendering of services by the Plaintiffs at Shri Ramling and Shri Dhuloba Temples. Such an order could not have been lightly interfered with, submitted Mr. Pawar. The observations of the learned District Judge that there was suppression of facts and the rotation chart relied upon by the plaintiffs was not reliable, were also totally uncalled for. The rotation chart had been acted upon by the parties. The mere fact that the rotation chart did not bear the signature of any officials or parties could not have been a justifiable ground to discard the rotation chart, submitted Mr. Pawar.

5. Mr. Mangle, learned Counsel for Respondent Nos.1 and 7 and Mr.

Shembavanekar, learned Counsel for Respondent Nos.2 to 7 and 1 to 6 in respective Petitions, supported the impugned order. It was submitted that the learned District Judge correctly exercised the jurisdiction to interfere with the order passed by the trial Court which was, in a sense, perverse. The Trial Court had passed an order on the basis of the rotation chart, which was ex-facie, unreliable, and ignoring the material which clearly indicated that the Defendants were in the management of the concerned temples and the Plaintiffs had suppressed material facts.

6. The jurisdiction of an appellate Court against the discretionary order is indeed limited. The appellate Court is not expected to substitute its own view for the view of the trial Court. The appellate Court can legitimately intervene in the order passed by the trial Court if it appears to be perverse or where the discretion has been exercised by the trial Court in derogation of the well settled legal position. Perversity in the findings of the trial Court may arise either on account of the consideration of a material which does not bear upon the determination of the controversy or non-consideration of the material, which was required to be taken into account.

7. In the case at hand, the learned District Judge was persuaded to interfere with the order passed by the trial Court as the Trial Court had based its findings principally on the rotation chart annexed to the plaint. In addition, there was suppression of facts on the part of the Plaintiffs.

8. Learned District Judge found that the rotation chart pressed into service on behalf of the Plaintiffs, did not bear the signature of any authority. It also referred to the common registration number, though the temples were registered with distinct number. More importantly, suppression of facts weighed with the learned District Judge. In the plaint, an endeavour was made by the Plaintiffs to assert that the Defendant No.7 had no concern with the families which were performing worship of Gods. It, however, transpired that Maharashtra Devasthan Samiti had passed an order permitting Defendant No.7 to perform worship at Shri Ramling temple for six months after a period of 12 years. The Plaintiffs were fully cognizant of the said order.

9. Upon careful consideration of the material on record, this Court finds that the learned District Judge correctly exercised the jurisdiction to correct the mistake in the exercise of discretion by the trial Court. The order passed by the trial Court was, in a sense, unidimensional. The Trial Court had banked upon the rotation chart alone which was tendered by the Plaintiffs. Prima facie, the infirmities in the rotation chart were ignored by the trial Court. Secondly, a body of material to show that four branches were performing worship at the respective temples and in accordance with the rotation chart relied upon by the Defendants and the documents to evidence the change over in the form of the charge slip, was completely eschewed from

consideration by the trial Court.

10. Since the Plaintiffs were seeking equitable relief, the contention on behalf of the Defendants of suppression of material facts on the part of the Plaintiffs were also required to be adequately delved into. The institution and withdrawal of a prior suit; the factum of Defendant No.7 having been permitted by the Maharashtra Devasthan Samiti to perform worship at Shri Ramling temple and the change over evidenced by the charge slips were suppressed by the Plaintiffs.

11. In the aforesaid backdrop, especially having regard to the fact that there was material to show that Defendant No.7 was handed over the charge of worship at Shri Ramling temple, the claim of the Plaintiffs that they were obstructed by the Defendants appears to be debatable.

12. Mr. Pawar attempted to wriggle out of the situation by asserting that the Plaintiffs were forcibly dispossessed and divested of their right to worship. I am afraid to accede to this submission. It was not the case of the Plaintiffs before the trial Court that they were forcibly divested of their right to worship at the said temple.

13. The conspectus of aforesaid discussion is that this Court in exercise of supervisory jurisdiction does not find any infirmity in the exercise of the jurisdiction by the appellate Court. Resultantly, the Writ Petition deserves to be dismissed.

14. Hence, the following order :

ORDER

- (i) The Writ Petitions stand dismissed.
- (ii) Rule discharged.
- (iii) No costs.

(N.J.JAMADAR, J.)