REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5043 OF 2009

SHRI RAM MANDIR INDORE ….Appellant

VERSUS

STATE OF MADHYA PRADESH
AND OTHERS …Respondents

J U D G M E N T

R. BANUMATHI, J.

This appeal arises out of the judgment dated 06.08.2002 passed by the High Court of Madhya Pradesh at Indore in and by which the High Court dismissed the Second Appeal No.266 of 2002 thereby affirming the findings of the First Appellate Court that Shri Ram Mandir, Indoukh is a public temple and that the suit property is vested in the Deity; and Ram Das and then Bajrang Das are only *pujaris* and not Mahant-Manager of the temple.

2. Briefly stated case of the appellant is as follows:-

Shri Ram Mandir is a private temple of which Mahant and Manager is Ram Das and that he has been continuing to perform

pooja-archana and management of the temple since the time of his guru. Earlier to him, his Guru Shri Shiromani Das Ji and still earlier to him, his ancestor guru used to offer *pooja-archana* and has been in management of the temple. Case of the appellant is that the temple is the private temple of which succession is by descendance according to the rules of Guru Parampara. The suit property/agricultural land has been allotted for Shri Ram Mandir in Inam and in its name and the land is in possession of Shri Ram Mandir. The temple is a private temple and government has no right in the temple and no aid was given by the Government in the construction, maintenance and repair of the temple. The respondents through an administrative order recorded the name of respondent No.3-District Collector as Manager of the temple without giving any notice to the appellant which is in violation of principles of Natural Justice and contrary to the provisions of law. According to the plaintiff, Shri Ram Mandir is a private temple and the government has no right to interfere in the administration of the temple and the possession and management of the suit lands. On 15.07.1988, respondents No.3 and 4-officers of Madhya Pradesh Government initiated proceedings for leasing out the disputed lands (Revenue Case No.28B/121-87-88) and

fixed 06.10.1988 as the date for auction for leasing of the temple properties and the same is without any right. The plaintiff has therefore filed the suit for a declaration that:- (i) Shri Ram Mandir at Indoukh is a private mandir and the State has no right to interfere in the management, *pooja-archana* and in the possession of the agricultural land; (ii) for grant of permanent injunction restraining the respondent-officials from interfering with the possession of the suit property by the plaintiff.

3. The respondent-State has filed the written statement contending that Shri Ram Mandir is not a private temple but is a public temple and that the status of the plaintiff is merely of a *pujari*. The Deity of the temple is owner of agricultural land which has been given by the government for the purpose of performance of *pooja-archana* etc. and taking proper care and meeting the expenses of the temple. The status of the *pujari* is like a servant of the temple appointed by the government and he does not acquire any right in the property owned by the Deity of the temple. District Collector, Ujjain was recorded as Manager in the revenue records in 1975-76, in accordance with law. That a "*Bbu Adhikar* and *Rina Patrika*" was issued to the appellant/plaintiff. According to respondents since the

management of the temple was not being properly and rightfully done and the income from the land was not being suitably utilised for the betterment of the temple, the State Government decided to auction the land in question so as to have resources and raise income for upkeep of the temple. The appellant himself got this land in 1985-86 on lease for Rs.860/- from the government and in this respect has also signed in the order sheet in Case No.93B/121-85-86. An amount of Rs.600/- was deposited on 31.07.1986 in this account. Thereafter, again in 1986-87 appellant got lease of said land for Rs.860/- out of which he deposited Rs.460/- on 11.11.1987 with the government. The appellant has thus treated the suit property as the property of the temple which is under the control and management of the government. Having agreed to take the same on lease, the appellant/plaintiff cannot turn around and contend that he is in management of the suit property and challenge the control and management of the suit property by the government.

4. On the above pleadings, relevant issues were framed by the trial court. Upon consideration of oral and documentary evidence, the trial court decreed the suit holding that Shri Ram Mandir is a private temple and not a public temple. The trial court

held that the temple was constructed by predecessor of Guru Ram Das and the temple is a private temple of the current Manager Bajrang Das who has succeeded as the Manager according to the Hindu Law. The trial court held that "*entry of Collector as Manager in the revenue records was without notice to the Manager of the temple and the changes made in the revenue records for a private temple without hearing the Manager of the temple, cannot be sustained*." The trial court further held that no evidence has been adduced by the State to establish their plea that the appointment of *pujari* was done by the State. On those findings, the trial court granted permanent injunction in favour of the appellant/plaintiff by holding that the State has no authority to auction the land vested in the appellant/plaintiff in his capacity as Mahant of the temple and the same is without authority of law.

5. Being aggrieved, the respondents preferred appeal before the appellate court. The first appellate court allowed the appeal holding that Shri Ram Mandir is a public temple and not a private temple. The appellate court held that all the lands are *inam* lands of Shri Ram Mandir and that the title in the disputed lands vests in the Deity. The first appellate court further held that the Collector

has been rightly recorded as Manager and the status of the *pujari* is only to perform *pooja-archana* and he has no further right in the temple. It was held that the possession of the land by the *pujari* is only on behalf of the Deity/temple and *pujari* has no right over the suit lands. Upon consideration of oral and documentary evidence, the first appellate court set aside the judgment of the trial court and allowed the appeal by holding that the *pujaris* of Shri Ram Mandir have been continuing according to the Guru-Shishya tradition of Naga Babas who have no family of their own.

6. Assailing the correctness of the judgment of the first appellate court, the appellant preferred the second appeal. The High Court affirmed the findings of the first appellate court holding that the suit property is recorded in the name of Deity and Ram Das and Bajrang Das were recorded only as *pujaris* and the name of *pujari* kept on changing and these *pujaris* do not belong to one family and there is no blood relation between those persons. The High Court held that the findings of the first appellate court that Shri Ram Mandir is a public temple is based on the facts and evidence adduced by the parties and no substantial question of law arose for consideration and accordingly, dismissed the second appeal.

7. Contention of the appellant is that Ram Mandir is a private temple established by predecessor Gurus and that the properties had been given to the suit temple as Inam and Ram Das was not a mere *pujari* but the Mahant of the said temple entitled to manage and administer the temple and the suit properties. According to the appellant, the entry recorded in the revenue records in the year 1975 inserting the name of the Collector, Ujjain as Manager was without notice to the plaintiff and hence, illegal. It was urged that mere recording of the name of the Collector in the revenue records as Manager does not confer any right upon the State. It was submitted that since temple was constructed by late Shri Gulab Das, Guru Sewa Das ji and the appellant and their Gurus are in administration of the temple and are in possession of the properties of the temple, the respondents are not justified in interfering with the possession of the suit properties and administration of Shri Ram Mandir.

8. Refuting the abovesaid contention, the learned counsel for the State submitted that Ram Mandir is a public temple and not a private temple as contended by the appellant. It was contended that several documents filed by the appellant/plaintiff indicates that the suit property is recorded in the name of the Deity

whereas the name of the person was recorded as *pujari* and the rights were passed from one *pujari* to another on the basis of Guru-Disciple relationship. It was urged that the documents clearly show *Inam* rights of Ram Mandir and the status of the appellant continued to be the *pujari* and his rights as *pujari* have not been affected in any manner whatsoever by the appointment of the Collector as the Manager. It was submitted that Shri Ram Mandir is a public temple and not a private one and in fact even the appellant Bajrang Das was appointed as pujari only by the Sub-Divisional Officer. It was submitted that the lease of the suit properties was auctioned and the appellant himself participated in such auction in 1985-1986 and 1986-87 and the appellant deposited the lease amount with the authorities and therefore, the appellant cannot turn around and claim that he is in administration of the temple. It was submitted that the concurrent findings of the High Court and the first appellate court are based upon evidence adduced by the parties and the same warrant no interference.

9. We have heard Mr. Puneet Jain, learned counsel for the appellant and Mr. Vaibhav Srivastava, learned counsel for the State and perused the impugned judgment and the judgment of

the First Appellate Court and the evidence and other materials on record.

10. The question falling for consideration is whether Shri Ram Mandir is a public temple or a private temple as claimed by the appellant. Further question falling for consideration is whether the appellant is the Mahant of Shri Ram Mandir and whether he is in control and administration of the temple and the suit properties as claimed by him.

11. Even at the outset, it is to be pointed out that the very cause title of the plaint is misleading. The description of the appellant temple Shri Ram Mandir is couched in such a manner as if Shri Ram Mandir is represented by its Manager Ram Das. The respondent-State claims that Shri Ram Mandir is a public temple and Ram Das and then Bajrang Das are only *pujaris* performing *pooja-archana* in the temple. It is in this context and the auction conducted by the State for leasing the temple properties, the appellant-plaintiff filed the suit seeking declaration that Shri Ram Mandir is a private temple and permanent injunction restraining the respondents/defendants from interfering with the appellant's possession of the temple properties.

12. **Shri Ram Mandir is a public temple:-** The onus of proving that the appellant-Shri Ram Mandir falls within the description of private temple is on the appellant who is asserting that the temple is a private temple and that he is the Mahant of the temple. In ***State of Uttarakhand and another v. Mandir Sri Laxman Sidh Maharaj*** (2017) 9 SCC 579, it was held that "*the necessary material pleadings ought to have been made to show as to how and on what basis, the plaintiff claimed his ownership over such a famous heritage temple and the land surrounding the temple. Thus, in the absence of any pleadings in the plaint that the pujari built the temple, they cannot claim the temple to be a private temple*." In the case in hand, plaint lacks pleadings regarding who constructed the temple and how he raised the funds. The name of Gulab Das who allegedly constructed the temple is not mentioned in the plaint. No evidence was adduced by the appellant to show as to how Gulab Das constructed the temple and whether personal funds were used by Gulab Das to establish the temple or whether there was contribution from the public. In his evidence, Bajrang Das (PW-1) has stated that the temple was constructed by Gulab Das. On the other hand, Bheru Lal (PW-2) has stated that the temple was constructed by Sewa

Das and Gulab Das. In the absence of pleadings and evidence that the temple was constructed by Gulab Das, the First Appellate Court rightly held that based on the evidence of PW-1, it cannot be held that Shri Ram Mandir is a private temple.

13. According to the respondent-State, Shri Ram Mandir has always been a part of the list of public temples. In 2013, Madhya Pradesh Government published a Directory containing names of all public temples in District Ujjain updating till 31.12.2012. Shri Ram Mandir is mentioned therein in the List as Entry 135 which clearly shows that the temple has been recognized as a public temple. Though, this document – List of public temples is subsequent to the suit, the entry of Shri Ram Mandir as the public temple in the register is a strong piece of evidence to hold that Shri Ram Mandir is a public temple. Be it noted that Bajrang Das and Ram Das are only shown to be the *pujaris.*

14. In ***Goswami Shri Mahalaxmi Vahuji v. Ranchhoddas Kalidas and others*** (1969) 2 SCC 853, the Supreme Court held that "*the origin of the temple, the manner in which its affairs are managed, the nature and extent of gifts received by it, rights exercised by the devotees in regard to worship therein, are relevant factors to establish whether a temple is a public temple*

or a private temple." Likewise, as held in ***Tilkayat Shri Govindlalji Maharaj Etc. v. State of Rajasthan and others*** [1964] 1 SCR 561, the participation of the members of the public in the Darshan in the temple and in the daily acts of worship or in the celebrations may be a very important factor to consider in determining the character of the temple. In the present case, the appellant has not adduced any evidence to show that there is restricted participation of the public for *darshan*.

15. It is to be pointed out that in the same premises, apart from, Shri Ram Mandir, there is a Ganesh temple which has a different *pujari* and there is also a Maruthi Mandir. In their evidence, Bheru Lal (PW-2) and Poor Singh (PW-3) have stated that the *pooja* at Ganesh Mandir is performed by Satyanarayan-brother of Bheru Lal (PW-2). There are thus two different *pujaris* who perform *pooja* for two separate idols situated in the same premises and they have been so performing *pooja* for generations. Contention of PW-1 that no outsider can come and perform *pooja* and *archana* in the premises of Shri Ram Mandir was rightly rejected by the first appellate court as the very premises has three Deities.

16. Another important aspect which indicates the public character of the temple is that there is no blood-relationship between the successive *pujaris.* In the present case, no evidence has been adduced to show that the temple belonged to one family and that there was blood-relations between the successive *pujaris*. If the temple was a private temple, the succession would have been hereditary and would be governed by the principles of Hindu succession i.e. by blood, marriage and adoption. In the case in hand, succession is admittedly governed by Guru-shishya relationship. Each *pujari* is not having blood relation with his predecessor *pujari*. When the *pujarishipp* is not hereditary, as rightly held by the High Court, Shri Ram Mandir cannot be held to be a private temple.

17. PW-1 has admitted that the *pujaris* have been continuing according to Guru-shishya tradition of Naga Babas. Admittedly, Naga Babas followed different tradition from family persons i.e. they followed the tradition that during the period of management of the temple, they did not have any *grihashtha*-household life. Admittedly, the tradition of Naga Babas of not having a household life has been broken by Bajrang Das (PW-1). In his evidence, PW-1 admitted that the temple is a seat of Nagas; but he is a

married person and a householder. The first appellate court has rightly held that the temple established by Naga Babas cannot be treated as a private temple as there was no interest of a particular person in the temple.

18. Even the appointment of Bajrang Das (PW-1) as *pujari* of Shri Ram Mandir was done by the Sub-Divisional Officer, Tehsil Mahidpur, on the application filed by Bajrang Das. In his application before the Sub-Divisional Officer, Tehsil Mahidpur, Bajrang Das (PW-1) stated that Guru Ram Das is aged about eighty years and suffering from paralysis and Bajrang Das has been performing the *pooja* since last ten years and therefore, prayed for entering him as *pujari* of Shri Ram Mandir. Ram Das had also given statement before the Sub-Divisional Officer stating that he is suffering from the ailment of paralysis and that he is not in a position to continue the work of *pujari* and that Bajrang Das may be appointed as *pujari.* The said application was registered as 10/98-99 *Pujari* Nomination and after calling for objection from the public, Sub-Divisional Officer, Tehsil Mahidpur had passed a detailed order on 01.06.1999 appointing Bajrang Das as the *pujari* of Shri Ram Mandir. In the said order of Sub-Divisional Officer dated 01.06.1999, it is made clear that the Collector is the

administrator in respect of lands entered in the name of Shri Ram Mandir situated in villages Indokh, Mundla Sodhya, Pipaliya Bhooma, Rajdhani and Bolkheda Dhar. The said order contains the *Khata* numbers of the lands and the extent of the lands. The Sub-Divisional Officer had passed further order dated 08.06.1999 mutating the name of Ram Das and entering the name of Bajrang Das as *pujari.* Ex.-D4 and Ex.-D5 – statements of Bajrang Das and Ram Das and the order passed by the Sub-Divisional Officer clearly show that Shri Ram Mandir is a public temple and that the Mandir and the properties are under the control and administration of the State through District Collector. Having been appointed the *pujari* of the temple by the Government, Bajrang Das and Ram Das are estopped from contending that Shri Ram Mandir is a private temple. Considering the evidence and the fact that Bajrang Das himself has been appointed as pujari by the State, the first appellate court and the High Court rightly held that Shri Ram Mandir is a public temple. We found no ground to interfere with the said concurrent finding.

19. ***Pujaris* were never Inamdars of the temple properties:-** PW-1 relies upon Ex.-P20 – a document through which Raja Bagh bestowed the land in favour of the temple for *Nevaidya* etc.

Ex.-P20 is of the year 1797 wherein it is mentioned that the land was bestowed by the Government upon the temple for *Nevaidya* etc. of the temple. The document reads as under:-

> "Gulab Das Baba, Shir Setaram. You have been gifted village land by the government for the Nevaidya and oil for lamp (Deepak) etc. for the deity (… not readable) therefore, by accepting bhog etc…..(not readable)."

Referring to Ex.-P20, the first appellate court held that the land was bestowed on the temple for *Nevaidya* etc. There is nothing to indicate that Gulab Das has established the temple from out of his personal funds and that he has become Inamdar of the property.

20. Number of documents produced by the appellant clearly show that the Inam rights have been conferred on Shri Ram Mandir and not on the *pujaris*. According to Ex.-P29, 30 and 31, lands of village Rabdamiya, Mundala Sondhiya, Pipalya Dhuma are recorded as Inam lands of Devsthan. In respect of the land in village Mundala Sondhiya, Ex.-P24 mentions Inam land of Shri Ram Mandir. In Ex.-P23, settlement patta relates to the land of village Mundala Sondhiya and the name of tenant is recorded as Shri Ram Mandir through Tulasi Das Guru Bhawa Das and the type of right "*Inam Devsthan*" has been written. As Per Ex.-P21, patta of village Rabdaniya which was issued by settlement holder

state reveals that this land was given to tenant Shri Ram Mandir through the then *pujari* Tulasi Das and its right has been shown as “Shri Ram Mandir Devsthan”. As per Ex.-P19, land of Mundala Sondhiya has been given to the *pujari* of Shri Ram Mandir Devsthan. As per Ex.-P18, the land of Pipalya Dhuma is the land of Inam Devsthan Shri Ram Mandir. As per Ex.-P17, the land of village Rabaniya has been given to Devsthan Shri Ram Mandir as Inam right. According to Ex.-P16, the land of Bolkheda has been given to Devsthan as Inam right. As per Ex.-P15, the land of village Kankalkhdea has been given to Shri Ram Mandir Inam Devsthan. As per Ex.-P14, the land of Indoukh has been given to tenant Shri Ram Mandir *Pujari* Kanvsidas on the rights of Inam Shri Ram Mandir.

21. The First Appellate Court referred to various documents in particular pattas and held that all the lands have been given to Shri Ram Mandir Devsthan by way of Inam. The number of documents produced by the appellant clearly show that the lands are Inam lands of Shri Ram Mandir and that the status of Ram Das and Bajrang Das were only *pujaris.* In number of other documents also, Shri Ram Mandir is recorded as “Bhumiswami” for the suit property and the names of specific individuals are

recorded only as *pujaris*. In the light of various documents and the formidable entries made thereon, there is no merit in the contention of the appellant that they have become Mahant of Shri Ram Mandir and that they are entitled to manage the affairs of the temple and the Mandir's properties.

22. Ex.-P2 is the copy of Kishtbandi Khatauni of the year 1971-72 in which, rights of land of Indoukh are recorded as "Shri Ram Mandir as Bhumiswami". *Pujari* Ram Bali Das, Guru Ganga Das Bairagi resident of Deh Bhumi Swami have been described only as *pujaris*. Likewise, in Ex.-P4 relating to the land of village Bolkheda Ghat, Shri Ram Mandir has been recorded as "Bhumiswami" and Ram Bali Das has been mentioned only as a priest. For the land of village Pipalya Dhuna, Bhumiswami rights are recorded in favour of Shri Ram Mandir and Ganpati Mandir of which Ram Bali Das has been recorded as *pujari*. Likewise, as per Ex.-P7, Shri Ram Mandir, Indoukh has been recorded as "Bhumiswami" for the land of village Mundala Sondhiya. Though, the appellant got certified copies of these documents on various dates viz. 12.08.1972, 16.09.1970 and 27.09.1970 and in spite of knowledge of the entry "Ram Mandir as Bhumiswami", it was not challenged till the filing of suit. For the land of Pipalya Dhuma,

Ganpati Maruti Mandir has been recorded as “Bhumiswami” along with Shri Ram Mandir and Collector, Ujjain has been recorded as Manager. The appellant did not challenge the rights of Ganpati Maruti Mandir which was recorded as “Bhumiswami” for the lands of the village Pipalya Dhuma. Be it noted that, Ganpati Maruti Mandir has not even been impleaded as a party.

23. The Collector was recorded as Manager for the lands of Shri Ram Mandir since the year 1975 and the same was not challenged. According to the respondent-State, the entry of the name of the District Collector as Manager of the temple properties dated 12.04.1974 has been done to curb the mismanagement of the temple properties at the hands of the *pujaris*. The learned counsel appearing for the State submitted that the circular dated 12.04.1974 was upheld by the High Court of Madhya Pradesh in ***Sadashiv Giri and others v. Commissioner, Ujjain and others*** 1985 RN 371 insofar as it applied to public temples.

24. The First Appellate Court has referred to the order of the High Court in LPA No.36/94 (27.07.1995) in and by which the High Court has directed to cancel the executive orders dated 18.11.1992 by which the names of the priests were removed from revenue records. As pointed out by the First Appellate Court,

pendency of such matters would not in any way affect the rights of Deity of Shri Ram Mandir in the suit properties as Shri Ram Mandir has been recorded as “Bhumiswami” for the suit properties. As discussed earlier, appellant Ram Bali Das was continued to be recorded only as *pujari* of Shri Ram Mandir. As discussed infra, on the application filed by *pujari* Ram Das, Bajrang Das has been appointed as *pujari* by SDO.

25. Plaintiff Ram Das himself got the land in the year 1985-86 on lease for Rs.860/- from the Government and in this respect, he has signed on the order sheet in case No.93B/121-85-86. An amount of Rs.600/- was deposited on 31.07.1986. Thereafter, in the year 1986-87, *pujari* Ram Das got the lease renewed for one year at Rs.860/- out of which he has deposited Rs.460/- on 11.11.1987 for which a receipt has been issued to *pujari* Ram Das. The fact that the appellant having taken the Mandir lands on lease from the Government clearly shows that the properties were never owned by the *pujaris* in their individual capacity. Having taken the Mandir property on lease from the Government, the appellant is estopped from denying that the temple properties are under the management and control of the Government. The suit lands have been given in the name of Shri Ram Mandir and

few other lands in the name of Ganesh Mandir for the arrangement of *pooja, archana, naivedya,* etc. for the public temple and the *pujari* has no right to interfere in the management of these lands as his status is only that of *pujari*.

26. The finding of the first appellate court and the High Court that Shri Ram Mandir is a public temple and not a private one is based upon the appreciation of oral and documentary evidence. Bajrang Das (PW-1) himself has been appointed as *pujari* by the Government and the appellant/plaintiff has not adduced any evidence showing that the temple belonged to one particular family. By oral and documentary evidence, it is clearly established that the suit lands are recorded in the name of Shri Ram Mandir. Having regard to the findings of the First Appellate Court, the High Court rightly held that no substantial question of law arose in the Second Appeal. Based upon oral and documentary evidence, the First Appellate Court and the High Court have recorded the concurrent findings of fact that Shri Ram Mandir is a public temple and not a private temple and that the agricultural lands were given to the Deity and not to the *pujaris.* The impugned judgment does not suffer from any infirmity warranting interference and this appeal is liable to be dismissed.

27. In the result, the appeal is dismissed. No costs.

…….……J.
[R. BANUMATHI]

……...……..J.
[R. SUBHASH REDDY]

New Delhi;
February 27, 2019