

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4548 OF 2019
(ARISING OUT OF SLP (CIVIL) NO.28641 OF 2013)

RAMSEWAK AND OTHERS .. Appellant(s)

Versus

BENI PRASAD (DEAD) REP THR. LRS. & ORS. .. Respondent(s)

O R D E R

Leave granted.

By an Order dated 29.12.1959, the Registrar/Collector, Narsinghpur held that Shri Deo Laxmi Narayan Mandir ('the temple') is a private trust. The civil suit filed for declaration by the respondents was decreed holding the temple to be a public trust. The appellants who are defendants in the suit filed an appeal before the High Court. During the pendency of the appeal some parties to the Appeal died and applications were filed for bringing the legal representatives on record. As there was inordinate delay in filing those applications, the High Court dismissed the applications and held that the appeal has abated.

Mr. Sushil Kumar Jain, learned senior counsel for the appellants submits that there are other

appellants/defendants in the suit who are still surviving and it cannot be said that the appeal has abated. The learned counsel appearing on behalf of the respondents-plaintiffs submitted that the decree cannot be severed and once the Appeal has abated against the defendants who have passed away, the Appeal does not survive for consideration.

Without expressing any opinion on the submissions made by the learned counsel for both the parties, we remit the matter to the High Court to adjudicate on the issue as to whether the entire Appeal would abate as a consequence of abatement in respect of those defendants who died. As the suit was filed about 47 years back, we request the High Court to decide the appeal expeditiously not later than six months from today.

In the meanwhile, the appellants would not indulge in any alienation of the property. It is needless to mention that the orders passed by the High Court dismissing the applications filed for bringing the legal representatives on record, shall not be revisited by the High Court.

The appeal is disposed of.

.....J.
(L. NAGESWARA RAO)

.....J.
(M.R. SHAH)

New Delhi,
Dated: April 25, 2019.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 28641/2013

(Arising out of impugned final judgment and order dated 21-01-2013 in FA No. 252/1990 passed by the High Court Of M.P. Principal Seat At Jabalpur)

RAMSEWAK AND ORS.

Petitioner(s)

VERSUS

BENI PRASAD (DEAD) REP THRO LRS. & ORS.

Respondent(s)

Date : 25-04-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE M.R. SHAHFor Petitioner(s) Mr. Sushil Kumar Jain, Sr. Adv.
Mr. Akshat Shrivastava, AOR
Ms. Pooja Shrivastava, Adv.
Mr. Sarbjit Dutta, Adv.For Respondent(s) Mr. Ritesh Agrawal, AOR
Mr. Tushar Jalan, Adv.
Mr. Sohel Rishabh, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of.

Pending application(s), if any, stand disposed of.

(GEETA AHUJA)
COURT MASTER (SH)(KAILASH CHANDER)
ASSISTANT REGISTRAR

(The Signed Order is placed on the file)