

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3278 OF 2011
(Arising from SLP(C)No.7518/2010)

Laljibhai Bhikhabhai Dhaduk & Ors.

..Appellants

versus

Trust, the Temple of Shree
Laxminarayan Dev Temple & Others

..Respondents

O R D E R

Leave granted.

Heard learned counsel for the parties.

This Appeal has been filed against the impugned judgment and order dated 26th February, 2010 passed by the High Court of Gujarat at Ahmedabad in Misc. Civil Application No. 3154 of 2009 in LPA No. 183 of 1973 in FA No. 543 of 1970.

The facts have been set out in the impugned judgment and hence we are not repeating the same here.

Ordinarily, when a trust is created, the trust deed itself sets out the scheme of the trust. Any one who wishes to get the scheme modified can go under Section 50 of the Bombay Public Trusts Act, 1950 (for short 'the Act') before the District Judge/Charity Commissioner. However, in the present case, the scheme was not created by the trust deed but it was created by the High Court itself by an order dated 4.5.1973 which was no doubt a final order but if any body wished to get the scheme modified he has now to approach the High Court itself in view of clause 47. It will be

CIVIL APPEAL arising from SLP(C)No.7518/2010

strange to say that the District Judge can modify a scheme created by the High Court.

Hence, we allow this appeal, set aside the impugned order and remand the matter to the High Court to decide the modification application in accordance with law after hearing the parties concerned, expeditiously, preferably within four months from the date of receipt/production of a copy of this order. If recording of evidence is necessary, the High Court may also record the evidence.

Insofar as interlocutory applications are concerned, we are not passing any order on the same and anybody who has any grievance may approach the High Court in respect of the prayer made in the interlocutory applications. If the same are filed they shall also be decided in accordance with law expeditiously after hearing the parties concerned.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
APRIL 15, 2011

.....J.
[GYAN SUDHA MISRA]