

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 6915-6916 OF 2008

HIRABAI SHIVAYYA SWAMI (D) THR. LRS. Appellant(s)

VERSUS

SAYED SAJJAD HUSEN SAHEB HUSEN JAGIRDAR ETC. Respondent(s)

WITH

SPECIAL LEAVE PETITION (C) No. 4116 OF 2012

WITH

CIVIL APPEAL NOS. 6311-6312 OF 2013

O R D E R

C.A.Nos. 6915-6916 OF 2008

& C.A.Nos. 6311-6312 OF 2013

This order shall dispose of Civil Appeal Nos. 6915-6916 of 2008 directed against an order passed by the learned Single Judge of the High Court of Bombay on 02.05.2008 as well as the order passed in Review and Civil Appeal Nos. 6311-6312 of 2013 directed against an order passed by the High Court, Bench at Aurangabad on 04.09.2003 in Writ Petition No. 2205 of 1999 and the order passed in Review.

On 16.12.1972, in a Suo-moto inquiry under Section 19 of the Bombay Public Trusts Act, 1950 the Assistant Charity Commissioner passed an order of registration of Shri Siddappa alias Khaja Magdum

Allaudin alias Anant Chaitanya and Sheikh Sikandar Chisti at Burhanpur, Taluka Akkalkot, District Solapur, to be registered as a *Composite Public Trust*.

Such direction was challenged by the respondent(s) herein before the Joint Charity Commissioner. The Joint Charity Commissioner dismissed the appeal on 27.09.1974.

Still further, the respondents filed an appeal before the Assistant Judge, Solapur. Such appeal was dismissed on 11.07.1978. Aggrieved against the said order, the respondents filed an appeal before the High Court on 20.11.1979. It is said appeal which has been decided by the learned Single Judge on 02.05.2008.

The respondents filed a writ petition in the year 1999 before the Aurangabad Bench of the High Court of Bombay, challenging the act of deregistration of Dargah and Wakf properties. The said writ petition was allowed. According to the appellants, the pending dispute before the High Court was not disclosed, and without impleading the appellants who were directly affected parties. The said order of the Division Bench of the High Court in the writ petition so filed was made the basis of allowing the appeal of the respondents by the learned Single Judge.

In this background, we find that it will be in the interests of justice to set aside the order passed by the Division Bench on 04.09.2003 which was passed without impleading the appellants as also the orders passed in Review. The order of the learned Single Judge on 02.05.2008, which is the basis of the said order is also set aside as also the orders passed in Review for the reason that the basis of such order itself stands knocked down. The writ petition and also the appeal before the High Court are restored to their original numbers. The High Court to decide both the matters together by a Division Bench.

The Division Bench of the High Court shall decide the matter on merits without being influenced by any of the findings recorded herein. The parties shall be at liberty to raise all questions of law and facts before the High Court who shall decide the matter in accordance with law.

Since the matter is pending for long, we hope that the High Court will be able to take up and decide the matter expeditiously.

In view of above, the civil appeals are disposed of.

SLP (C) No. 4116 OF 2012

This Special Leave Petition is directed against an order denying the repairing and reconstruction works of the property in question. It shall be open to the parties to seek such interim order before the High Court. The High Court shall decide the matter in accordance with law.

The Special Leave Petition is, accordingly, disposed of.

.....J.
[HEMANT GUPTA]

.....J.
[VIKRAM NATH]

New Delhi;
JULY 20, 2022.

ITEM NO.104

COURT NO.9

SECTION IX

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

Civil Appeal No(s). 6915-6916/2008

HIRABAI SHIVAYYA SWAMI (D) THR. LRS.

Appellant(s)

VERSUS

SAYED SAJJAD HUSEN SAHEB HUSEN JAGIRDAR ETC.

Respondent(s)

WITH

SLP(C) No. 4116/2012 (IX)

C.A. No. 6311-6312/2013 (III)

Date : 20-07-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE VIKRAM NATHCounsel for the
partiesMr. Shyam Divan, Sr. Adv.
Mr. Varun V. Solshe, Adv.
Mr. Vivek C. Solshe, Adv.
Mr. Anjani Kumar Jha, AORMr. Shakir Shabir, Adv.
Mr. Ibad Mushtaq, Adv.
Mr. Fuzail Ahmad Ayyubi, AORMr. Rahul Chitnis, Adv.
Mr. Sachin Patil, Adv.
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shewtal Shepal, Adv.Mr. Javed Shaikh, Adv.
Ms. Fauzia Shakil, Adv.

Dr. J. P. Dhanda, AOR

Mr. Nishant Ramakantrao Katneshwarkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

I.A. No. 5 of 2009 - application for impleadment is allowed.

The Civil Appeals and the Special Leave Petition are disposed
of in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed
of.

(JAYANT KUMAR ARORA)
ASST. REGISTRAR-CUM-PS

(RENU BALA GAMBHIR)
COURT MASTER

(Signed order is placed on the file)