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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
PRASHANT KUMAR MISHRA; J., K. VINOD CHANDRAN; J.
CIVIL APPEAL NOS.7181-7182 OF 2016; FEBRUARY 25, 2026
OGEPPA (D) THROUGH LRS. AND OTHERS *versus* **SAHEBGOUDA (D) THROUGH LRS. AND OTHERS**

Civil Law – Hereditary Pujari Rights – Suit for Possession – Effect of Withdrawing Previous Suit – The Appellants claimed hereditary pujariki (priest) rights based on a 1901 decree - noted that the Appellants' predecessor had filed a subsequent suit specifically seeking possession of the temple and an injunction - This subsequent filing constituted a categorical admission that the Appellants were not in possession at that time - held that a party in settled possession does not sue for possession - the Appellants withdrew the 1944 suit with liberty to file a fresh one but failed to do so for 36 years, leading to an "inevitable inference" that they had reconciled with the factual reality of not having possession. *[Paras 18–20]*

Evidence and Pleadings – Oral Evidence vs. Pleadings – Supreme Court noted that a party asserting a competing claim to hereditary rights must specifically plead material particulars, such as when they entered possession and when obstruction began - The Appellants' written statement was silent on these aspects – Noted that the settled legal principle that oral evidence cannot serve as a substitute for pleadings, and a case not made out in the pleadings cannot be established through evidence alone. *[Para 23]*

Constitution of India – Article 136 – Concurrent Findings of Fact – The Supreme Court reiterated that its jurisdiction under Article 136 should be exercised sparingly, particularly when dealing with concurrent findings of fact from the courts below - Interference is only warranted if such findings are "manifestly perverse" - In this case, the findings of the First Appellate Court and the High Court in favor of the Respondents were found to be legally sound and based on a careful appreciation of the factual matrix – Appeal dismissed. *[Paras 16 - 24]*

For Appellant(s): Mr. Basava Prabhu S. Patil, Sr. Adv. Mr. S. K. Kulkarni, Adv. Mr. M. Gireesh Kumar, Adv. Mr. Ankur S. Kulkarni, AOR Ms. Uditha Chakravarthy, Adv. Mr. Arijeet Shukla, Adv. Mr. Tarun, Adv. Mr. B.k.prasad, Adv. Mrs. Rajini.k.prasaf, Adv. Ms. N. Annapoorani, AOR.

For Respondent(s): Mr. T. V. Ratnam, AOR Mr. Akhil Ranganathan S., Adv. Mr. Rajendra Prasad Maurya, Adv.

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1) The present *lis* before us is a protracted dispute spanning over a century, wherein the respondents/plaintiffs and the appellants/defendants lay competing claims to the ancestral pujari rights and the right to perform puja of the deity Amogasidda – a saint who passed away 600 years ago and his Samadhi was built as a reverence at the temple situated in Mamatti Gudda, Jalgeri, Arkeri, Karnataka. The core controversy centres on who amongst these feuding families constitutes the hereditary wahiwatdar pujari entitled to conduct the religious ceremonies, receive the offerings from devotees, and hold the annual Jatra celebrations at the said temple. For convenience, the parties shall be referred to as per their original status before the Principal Munsiff at Bijapur in Original Suit No.56/1982.

2) The trail of facts before us unfolds as thus: The genesis of this long-standing dispute dates back to 1944, when deceased Ogeppa Biradar/predecessor-in-interest of the appellants/defendants along with others filed Original Suit No. 88 of 1944 for possession of the suit temple and other properties, contending that the plaintiffs had entered into possession of the temple property by force and had asserted the right to perform puja. The Trial Court dismissed the above suit *vide* judgment and order dated 28.03.1945. The appellants/defendants preferred First Appeal in Civil Appeal No. 118 of 1945, but during its pendency, they filed an application to withdraw the said suit with liberty to file a fresh suit, to which the plaintiffs/respondents' counsel consented. The Appellate Court accordingly set aside the judgments of the Trial Court *vide* order dated 15.06.1946 and permitted the withdrawal.

3) In 1967, it was alleged by the respondents/plaintiffs that the appellants/defendants started obstructing the puja in the suit temple and consequently, the respondents/plaintiffs filed a suit being O.S No.347/1967 for permanent injunction restraining the appellants/defendants from interfering with the respondents/plaintiffs' peaceful possession and enjoyment of the suit property as pujaries and pujariki rights. In the said suit, an ex-parte decree was granted in favour of the respondents/plaintiffs. However, the said suit was later dismissed for non-prosecution.

4) Later, on 24.03.1982, the present respondents/plaintiffs filed O.S. No. 56 of 1982 before the Court of the learned Principal Munsiff at Bijapur for a declaration that they are the ancestral wahiwatdar pujargi possessing puja rights at the suit temple, along with consequential prayers for permanent injunction.

5) The respondents/plaintiffs asserted their status as ancestral wahiwatdar pujaries with pujariki rights to perform puja of the deity Amogasidda, with respondent/plaintiff No. 1 possessing eight annas of such rights whilst the remaining rights were distributed amongst the other respondents/plaintiffs and exercised in rotation. They claimed continuous performance of puja at the Samadhi, constructed approximately 600 years ago and receipt of offerings from devotees during the year — round puja and the annual jatra held at chaity amavasya. Having sought to register the temple as a public trust with the Assistant Charity Commissioner, Belgaum (enquiry No. 321/1980), plaintiffs/respondents alleged that since 20.03.1982, the appellants/defendants with police assistance obstructed daily puja, attempted forcible night entry, removed puja articles, necessitating a police complaint for trespass and a suit seeking declaration of their rights as the pujaris of the suit temple.

6) The appellants/defendants denied any puja rights of the respondents/plaintiffs, relying instead on O.S No. 287/1901 wherein their ancestors obtained a decree conferring puja rights on Gurappa S/o Manigeppa Poojari. They contended they are the successors of the plaintiff in O.S. No.287/1901, whilst the present respondents/plaintiffs are the descendants of the defendants therein. The appellants/defendants contended that they continuously exercised pujarki rights as wahiwatdars, conducted jatra celebrations, and received offerings from the devotees. The appellants/defendants also claimed to have possession of the suit temple and the religious buildings attached thereto.

7) The Trial Court, *vide* judgment and order dated 18.11.1986, partly decreed the suit. The Trial Court declared that both, the respondents/plaintiffs and the appellants/defendants, are pujargies of the suit temple and shall perform puja and jatra in a certain proportion, whilst rejecting the prayer for injunction.

8) Aggrieved, the appellants / defendants filed Regular Appeal No. 97 of 1986 on 10.12.1986 before the Additional Civil Judge[1], whilst the respondents/plaintiffs filed Regular Appeal No. 98 of 1986 on 12.12.1986. The First Appellate Court *vide* judgment and decree dated 05.07.1990 allowed R.A. No. 98 of 1986 filed by the respondents / plaintiffs and dismissed R.A. No. 97 of 1986 filed by the appellants / defendants, decreeing the suit as prayed for by holding that the respondents/plaintiffs are the hereditary pujari of the suit temple.

9) The appellants/defendants being aggrieved by the judgment passed by the First Appellate Court preferred Regular Second Appeal Nos. 708 and 709 of 1990 before the High Court. By its judgment dated 24.07.1992, the High Court allowed both the second appeals, setting aside the judgment dated 05.07.1990 passed by the First Appellate Court and reversing the decree in favour of the appellants/defendants. The High Court further held that the Additional Civil Judge, Bijapur has no jurisdiction to entertain the regular appeal filed by the respondents/plaintiffs as the jurisdiction of the Civil Court is barred under Section 80 of the Bombay Public Trust Act, 1950.

10) Against the High Court's judgment dated 24.07.1992, the respondents/plaintiffs preferred special leave petitions before this Court which were later converted into Civil Appeal Nos. 1352-1353/1993. This Court *vide* judgment dated 28.03.2003 while allowing the said Civil Appeals, remanded the matter back to the High Court. This Court held that the bar of Section 80 of the Bombay Public Trust Act did not apply and the matter required decision on merits.

11) After remand, the appeals preferred by the appellants/defendants were heard on merits by the High Court and *vide* its judgment and order dated 04.10.2012, the appeals were dismissed thereby decreeing in favour of the respondents/plaintiffs. It is against this judgment of the High Court dated 04.10.2012 that the present Civil Appeals come before us.

12) The learned counsel for the appellants/defendants contended that the O.S No.88/1944 was withdrawn with liberty and the Court's reliance on a non-est decree is contrary to settled law. To bolster his submissions, the learned counsel for the appellants/defendants placed reliance on decree in O.S No.287/1901 whereby the appellants/defendants' hereditary rights/puja rights were decreed in their favour.

13) Lastly, the learned counsel for the appellants/defendants submitted that the revenue records produced on behalf of the respondents/plaintiffs cannot form basis of decreeing the respondents/plaintiffs suit.

14) Conversely, the learned counsel for the respondents/plaintiffs supported the impugned judgment and prayed for the dismissal of the Civil Appeals.

15) Heard the learned counsel for both the parties and perused the material available on record. It thus falls upon us to examine the correctness of the impugned judgment.

16) It is neither novel nor uncertain that this Court in catena of judgments has held that the jurisdiction under Article 136 of the Constitution of India should be used sparingly. More particularly when dealing with concurrent findings of fact. Unless and until the findings rendered by the courts below are manifestly perverse, this Court should be reluctant to intervene in the same.

[1] For short, "The First Appellate Court"

17) In the present *lis* before us, both, the High Court as well as the First Appellate Court, have rendered concurrent findings on the aspect of the pujari rights over the subject temple and held in favour of the respondents/plaintiffs.

18) The appellants/defendants contend that the pujarki rights of the Amogasidda temple lie with them, as their predecessor has a decree in this regard in his favour in O.S No.287/1901. Both, the First Appellate Court and the High Court, while dealing with this particular issue have held that though the appellants/defendants claim that they have a decree in their favour, they seem conspicuously silent on the fact that they have filed a suit seeking possession and pujariki rights in OS No.88/1944. Though the Trial Court in this suit has decreed against the appellants/defendants, the considerable factor is that the suit was filed for possession of the suit temple. On the one hand, the appellants/defendants claimed that the previous suit instituted by their predecessor was in their favour and they have been granted the possession of the subject temple and pujariki rights and on the other, they filed a suit seeking the same relief in 1944. If the appellants/defendants had a decree of possession in their favour, the question arises as to how and when they lost possession of the subject premises. This fact has been considered by both the Courts below and it also manifests that the written statement of the appellants/defendants is silent on this aspect.

19) The First Appellate Court rightly noticed that if the appellants/defendants were indeed in continuous and uninterrupted possession of the suit temple and had been discharging their duties as wahiwatdar pujaries thereunder, there was no conceivable reason for their predecessor to have instituted O.S. No. 88 of 1944 seeking possession and injunction. A party in settled possession does not sue for possession. The very institution of that suit is a categorical admission by the appellants/defendants' predecessor that possession of the suit temple was not with them at the relevant point in time. This inference drawn by both, the First Appellate Court and the High Court, is legally sound.

20) The matter does not rest there. The predecessor of the appellants/defendants, having lost the said suit on merits before the Trial Court *vide* judgment dated 28.03.1945, preferred Civil Appeal No. 118 of 1945. Critically, instead of pursuing the appeal, an application was moved seeking withdrawal of the suit with liberty to file a fresh suit. Such liberty was granted by order dated 15.06.1946. Thereafter, for over three and a half decades, no fresh suit was instituted. The appellants/defendants have offered no explanation, either in their pleadings or in their evidence, as to what transpired during this long interregnum. As the High Court correctly observed, when a party obtains liberty to file a fresh suit and consciously refrains from doing so for thirty-six years, the inevitable inference is that the said party had reconciled itself to the factual reality on the ground. This conduct speaks louder than any decree of 1901 that the appellants/defendants seek to wave before this Court.

21) The High Court upon remand examined the documentary evidence in considerable detail. The Record of Rights (RTC) reflects the names of the respondents/plaintiffs' ancestors in connection with the lands granted by the then British Government in lieu of service rendered to the Amogasidda temple. The names of the appellants/defendants find no mention in these revenue records whatsoever. The appellants/defendants and their predecessors have been litigating over this very temple for over a century. They cannot, in these circumstances, feign ignorance of the revenue records or claim that such entries carry no evidentiary weight against them.

22) Further, the admission extracted from D.W.1 (Ogeppa) in crossexamination is of considerable significance. D.W.1, while denying that the Government had granted lands

to the Amogasidda temple at Mammatigudda, volunteered that the said grant was in respect of the Amogasidda temple situated in Jalageri village, which is the very suit temple. He further admitted that the said lands were being cultivated by the respondents/plaintiffs. This admission coming from the appellants/defendants' own witness clinches the matter insofar as the grant and its nexus to the respondents/plaintiffs is concerned.

23) We also find ourselves in agreement with the observations made by the High Court as regards the written statement filed by the appellants/defendants. A party setting up a competing claim to hereditary pujari rights is obligated to plead specifically—when they came into possession of the suit temple; when they commenced performing puja; when and how the respondents/plaintiffs began obstructing them; and what steps, if any, they took to vindicate their rights during the long intervening period. The written statement of the appellants/defendants is reticent on each of these material particulars. They contend themselves with a bare denial and a reference to the 1901 decree. This is wholly insufficient. In the absence of any foundational plea, the oral evidence of D.W.1 attempting to fill these gaps must necessarily be disregarded. Oral evidence cannot be a substitute for pleading, and a case not made out in the pleadings cannot be erected on evidence alone.

24) Looking at the matter in its entirety, what emerges is this that the respondents/plaintiffs have established their claim throughout, through consistent documentary evidence, revenue records, the admission of the appellants/defendants' own witness, and the testimony of independent witnesses, including the devotees of the temple, that they have been performing puja at the Amogasidda temple as hereditary wahiwatdar pujaries. The appellants/defendants, on the other hand, rest their claim almost entirely on a century-old decree, the effect of which was demonstrably undone by their own predecessor's subsequent conduct in instituting a suit for possession in 1944. The concurrent findings of the First Appellate Court and the High Court reflect a correct and careful appreciation of this entire factual matrix. Hence, we find no perversity in the impugned judgment of the High Court dated 04.10.2012.

25) Accordingly, the Civil Appeals are *sans* merit and are dismissed.

26) No orders as to costs.