

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VIVEK JAIN
FIRST APPEAL No. 249 of 1998
MAHANT BHAGWANDAS SADIK SHISHYA
Versus
STATE OF M.P. THRU. COLLECTOR & ORS.**

Appearance:

Shri Abhishek Shrivastava - Advocate for the appellant.

Shri Rakesh Kesharwani – Government Advocate for the State.

JUDGMENT

(Reserved on : 30.07.2026)

(Pronounced on :04.08.2026)

The present appeal under Section 96 of the Code of Civil Procedure has been filed by the plaintiff being aggrieved by the judgment and decree dated 29.01.1998 passed by the Trial Court in RCSA No.14 of 1997, whereby the suit of the present appellant/plaintiff has been dismissed.

2. The suit was filed by the present appellant stating himself to be disciple of Mahant Dharam Das and there being a temple known as Temple Janrai Toriya situated at Chhatarpur. It is stated to be of Bairagi Naga Sadhu Sampradaya associated to Nirmohi Akhada, Chitrakoot. As per the suit, mode of succession in the temple is Guru-disciple tradition. It was contended in the plaint that the plaintiff being Mahant of the temple be

declared the title-holder of the properties as stated in the plaint, which amount to a total of around 67 acres situated in different survey numbers.

3. The State filed written statement and countered the assertions made in the plaint by stating in the written statement that the property in question is not the self-acquired property of the Mahant, but it is the land attached to a public temple and the Mahant is given monthly allowance by the State, which earlier was Rs.7 and 13 Annas and the temple is a public temple being a public property. The lands which are being sought to be declared in the personal title of the plaintiff are Nazul lands, which were attached to the temple by granting exemption of land revenue (Muafi land). The land is not the private and personal property of the Mahant and the position of the Mahant in the temple is like that of a priest, who can manage the affairs of the temple, but he cannot claim proprietary rights over the land. On these assertions, the suit was contested and prayed to be dismissed.

4. The Trial Court framed issues in the matter and held that the plaintiff is not the title holder of the land and he is not entitled to claim the reliefs sought in the plaint and that he is only a priest of the temple. It was further found that the temple is a public temple. It was further found that the land in question is the property of the temple.

5. The question of auction of some land during the pendency of the suit was also raised and by answering issue No.5, the trial Court held that

the said auction is also not illegal as the auction has only been made for one year for the purpose of cultivation.

6. Learned counsel for the appellant has vehemently argued that the impugned judgment passed by the Trial Court is bad in law, because the said judgment does not recognize the rights of the Mahant of the temple, which are at higher pedestal than the rights of a mere priest and even more than the rights of a “Shebait”. He referred to the judgment of the Constitution Bench in the case of *Commr., Hindu Religious Endowments v. Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, (1954) 1 SCC 412.

7. By referring to the celebrated judgment in the case of *M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das*, (2020) 1 SCC 1 (popularly known as the Ram Janmabhumi Judgment), it was argued that the Mahant is concerned with the overall management of the temple so also the temple property and he cannot be said to be a mere priest. He can manage all the temple properties and the title vests in the Mahant, who represents the religious institution.

8. The stand of the State and the finding of the Trial Court, that the Mahant is a mere Pujari should not be allowed to be sustained as it runs counter to the rights of the Mahant.

9. By further referring to the judgment of the Hon’ble Supreme Court in *Sanjeeta Das v. Tapan Kumar Mohanty*, (2010) 10 SCC 222, it is argued that a Pujari cannot be treated as Bhumiswami, Muafidar or

Kashtkar. The status of a Pujari is different from the status of a Mahant and Mahant stands at a much higher pedestal than a Pujari and there is no comparison between the two.

10. It was vehemently argued by referring to the State Gazetteer of Chhatarpur of the year 1907 that the temple in question was established in the year 1603, even before the establishment of Chhatarpur town. It is argued that there is a succession of the Mahants of the temple, which has been placed on record as Exhibit P-1, as per which the first Mahant was Mahant Hardev Ji and the Mahant mentioned in the Gazetteer, Mahant Parmanand Ji was third in line of the Mahants. It is argued that the receipt was issued vide Exhibit P-5 for diversion of the land in the name of the then Mahant, Siyaram Das, who was murdered in the year 1965. It was only after the murder of the then Mahant Shri Siyaram Das in 1965, that disputes started arising in the management of the temple and the Math. It is argued that notice was issued for depositing the charges for diversion, and notice Exhibit P-6 was issued in the name of Mahant Siyaram Das for diversion of land to commercial purpose, which was then deposited.

11. By placing vehement reliance on the revenue Khasras of settlement year 1939–40, it is argued that the then Mahant, Bharat Das is recorded as person in occupation of land as Mahant in the said Khasra of settlement year 1939–40. By further placing reliance on certain documents filed along with the application under Order 41 Rule 27 CPC, it is stated

that the name of Mahant Jagan Nath Das is mentioned in certain old revenue records, which are filed along with this interlocutory application. The said document is a Register of Muafi in the name of Janki Das, the then Mahant, is mentioned as Muafidar.

12. It is, therefore, vehemently argued that the name of the Mahant used to be recorded in the revenue records up to the year 1985–86 and it was only vide Exhibit P-26 that for the first time, that the name of Collector was inserted into the revenue Khasra without any reason. By referring to the Khasra Exhibit P-26, it is vehemently argued that all of a sudden, the name of Collector was mentioned as Manager of the temple and the Mahant was mentioned as Sarvarakar of the temple, which should be deleted and the name of Plaintiff being Mahant be substituted as the owner and proprietor of the land.

13. *Per contra*, it is vehemently argued by Government Advocate for the State that the Trial Court has given a categorical finding of fact that the property is not the self-acquired property of the Mahant and the property is the property of the temple. The priest cannot claim any proprietary rights over the temple property. It is argued that the Trial Court has considered in detail that the property actually belongs to the deity and therefore, the suit filed by the Mahant for declaring the property to be the property of the Mahant was utterly misconceived and has rightly been dismissed by the

Trial Court. On these assertions, the judgment under challenge is defended by the counsel for the State.

14. This Court has heard learned counsel for the rival parties at length and perused the material on record.

15. In the present case, a suit has been filed by the present plaintiff claiming proprietary rights on different parcels of land containing huge area of around 67 acres and the relief clause in the plaint is that the plaintiff Bhagwan Das be declared owner of the land in question. The prayer made in the plaint is not that the temple or the Deity be declared owner of the lands in question or that the plaintiff be declared Mahant of the temple in question, but the prayer is simply to declare the plaintiff as owner of the lands in question.

16. It would have been a different matter, if a declaratory suit had been filed to declare the plaintiff as the Mahant of the temple in question and then a right to manage the temple land and to dispose of the temple land in the interest of the temple had been sought by way of such a suit. However, in the present case, simpliciter a suit for declaring the lands to be proprietary right of the Mahant in his own name has been sought. The suit has not been filed in the name of deity or in the name of temple, but the suit has been filed in the name of Mahant in his personal name and the relief is to declare the lands to be personal property of the Mahant in his own name.

17. Even the declaration is not sought to declare the lands as lands owned by seat of Mahant, which would be declaration of proprietary rights in a seat having perpetual succession of *Mahantship*, but declaration is being sought in personal name by the Mahant and by getting this declaration, the plaintiff Bhagwan Das would get the right to sell or alienate the lands in question, which even as per plaint assertions are attached to the Temple. Therefore, the assertions made in the plaint do not match the relief claimed in the plaint as the relief claimed is clearly to declare the lands as in the title of Bhagwan Das.

18. There is no case set up in the entire plaint that any previous Mahant had acquired the property in his personal name or for his personal use and there is absence of any such pleading made in the plaint that any previous Mahant had acquired the property for his personal use. Therefore, the current Mahant, even if he is assumed to be Mahant presently, could not have sought a declaration in his personal name as duly declared title holder of the lands attached to the temple.

19. Counsel for the appellant/plaintiff had vehemently relied on the State Gazetteer of the year 1907 of Chhatarpur State as per which the “Temple Janrai” is said to be constructed by one Siddh Parmanand Ji in year 1603. However, there is no mention in this Gazetteer that what is the land attached to the temple. Interestingly, the suit has not been filed for management of the temple or to declare the temple to be managed by the

Mahant in the line of succession of Guru-Disciple tradition, but a simple declaration has been sought on the ownership of land only without a single whisper of declaration of right of Mahant-ship in the temple. Therefore, for this reason also, the plaint is utterly lacking in bona fides of the plaintiff.

20. The counsel for the appellant had vehemently relied on the revenue Khasra of the year 1939–40 to indicate that the land was recorded in the name of then Mahant Bharat Das. The land may have been so recorded in the Khasra of 1939–40, but Bharat Das is recorded as a person in possession and not as proprietor of the land.

21. Now, the plaintiff wants the land to be recorded in the ownership and proprietary rights of the plaintiff. From a perusal of Khasra of the year 1969–70 till 1973–74 (Exhibit P-65), the lands have been recorded in the name of temple and these khasras mention the name of Mahant as Sarvarakar. Thereafter, the name of Collector seems to have been inserted for the first time in the year 1974–75 vide Exhibit P-66 and this continued thereafter.

22. The plaintiff has set up a case that the land is attached to the Temple, but he is not seeking any declaration for the land to be declared of the title of temple. Indeed, a finding has already been recorded by the Trial Court in response to Issue No.4(a), that the land belongs to the public Temple Janrai.

23. So far as the conversion of a certain portion of land to commercial purpose and diversion fees being deposited for that purpose is concerned, that is not a determinative factor to grant proprietary rights to the person, who is claiming to be Mahant of the temple. At most, these documents can be treated to be the then Mahant acting for the Temple. These cannot be treated to be the documents showing the then Mahant acting for himself in his personal capacity.

24. By placing reliance on judgment of the Hon'ble Supreme Court in the case of *Commr., Hindu Religious Endowments v. Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, (1954) 1 SCC 412*, it was argued before this Court that Mahant stands on a higher pedestal as compared to a Priest or as compared to a Shebait. There is no quarrel in this proposition, but what has been held in the aforesaid case by the Constitution Bench of the Hon'ble Supreme Court, is that the Mahant is head and superior of spiritual fraternity and the purpose of Mutt is to encourage spiritual training by maintenance of competent line of teachers, who can impart religious instructions. It has been held that ingredients of both office and property are blended together in the rights of Mahant and Mahant has the rights to enjoy property for beneficial interest as long as he is entitled to hold his office.

25. In the present case, what has been sought is the declaration of proprietary rights of property in the personal name of Mahant, which is

something which cannot be granted by the Trial Court and has rightly been denied by the Trial Court.

26. Reliance was also placed on judgment in the case of *M. Siddiq (supra)*, which is the celebrated case of Ram Janmabhumi Dispute. In paragraphs 443 & 444 of the aforesaid judgment, it has been held by the Hon'ble Supreme Court that protection of trust property is of paramount importance and a person claiming to be a shebait can never set up a claim adverse to that of the idol and he cannot claim a proprietary interest in the property. The aforesaid judgment is also contrary to what has been sought in the plaint by the plaintiff. It has been held as under :-

443. There may arise a situation where a shebait has been derelict in the performance of duties, either by not taking any action or by being complicit in the wrongful alienation of the endowed property. In such a situation, where a suit is instituted for the recovery of the deity's property, the action is against both the shebait and the person possessing or claiming the property in a manner hostile to the deity. The remedy for an action against mismanagement simpliciter by a shebait can be found in Section 92 of the Civil Procedure Code, 1908. However, where an action against a stranger to the trust is contemplated, the remedy is not a suit under Section 92 of the Civil Procedure Code, 1908 but a suit in general law.

444. In Vemareddi Ramaraghava Reddy v. Konduru Seshu Reddy [Vemareddi Ramaraghava Reddy v. Konduru Seshu Reddy, 1966 Supp SCR 270 : AIR 1967 SC 436] , the plaintiffs accused the defendants, who were the managers of the temple and its properties, of mismanagement. Subsequently, a compromise decree was executed between the defendants and the Hindu Religious Endowments Board which inter alia declared the temple properties as the personal property of the defendants. The plaintiffs sought a declaration under Section 42 of the Specific Relief Act, 1963 that the provision of the compromise decree stating that the temple properties were the absolute personal properties of the defendant was not binding on the temple. The defendants resisted this contention on the ground that the plaintiffs had no legal interest in

the temple or temple property and were mere worshippers whose suit could not bind the temple. V. Ramaswami, J. speaking for a two-Judge Bench of this Court held : (AIR p. 441, para 12)

“12. ... As a matter of law the only person who can represent the deity or who can bring a suit on behalf of the deity is the Shebait, and although a deity is a judicial person capable of holding property, it is only in an ideal sense that the property is so held. The possession and management of the property with the right to sue in respect thereof are, in the normal course, vested in the Shebait, but where, however, the Shebait is negligent or where the Shebait himself is the guilty party against whom the deity needs relief it is open to the worshippers or other persons interested in the religious endowment to file suits for the protection of the trust properties. It is open, in such a case, to the deity to file a suit through some person as next friend for recovery of possession of the property improperly alienated or for other relief. Such a next friend may be a person who is a worshipper of the deity or as a prospective Shebait is legally interested in the endowment. In a case where the Shebait has denied the right of the deity to the dedicated properties, it is obviously desirable that the deity should file the suit through a disinterested next friend, nominated by the court.”

445. A necessary adjunct of managing of the temple properties is the right to sue for recovery of the said properties. Ordinarily a shebait alone will be entitled to bring a suit on behalf of the idol. In addition to being convenient and providing immediate recourse for the idol, it also provides a valuable check against strangers instituting suits, the outcomes of which may adversely impact the idol without the knowledge of the idol or the shebait. But there may be cases where the conduct of a shebait is in question. In certain cases, where the shebait itself is negligent or sets up a claim hostile to the idol, it is open for a worshipper or a next friend interested in protecting the properties of the idol to file a suit to remedy the situation. In the above case, by entering into the compromise decree declaring the temple properties as personal properties of the defendant shebait, the defendants set up a title contrary to the title of the idol itself. This Court held that it was hence permissible for the plaintiffs, who were worshippers, to maintain a suit invalidating the compromise decree.

27. No doubt, it is true that there is difference between suing on

behalf of the deity and the institution of a suit in a personal capacity for the

benefit of the deity. The present case, is however, neither of the two. Here,

the Mahant is suing for his personal benefit by seeking a relief that is personal to him, though sets up the claim of the Temple.

28. The Hon'ble Supreme Court in the case *Kanchaniya (Mst) v. Shiv Ram, 1992 Supp (2) SCC 250* has held that Pujari or Manager of the Devasthan holds the lands given to him under the Parwana as Manager of the property. He functions under control and supervision of Auqaf Department and in event of his failure, he can be removed and Parwana issued in his favor can be revoked. The land is given under Muafi for worship and upkeep of the Devasthan and it is to be cultivated by some person to generate revenues and there has to be overall control of the Auqaf Department on the management of such lands which are given in Muafi to the Temple.

29. In the present case also, the lands have been given in Muafi to the Temple and now the present Mahant wants the lands to be declared in his personal name in his proprietary rights, which has rightly been turned down by the Trial Court. Therefore, this Court does not find any error in the impugned judgment and decree passed by the Trial Court.

30. At the concluding stage, counsel for the appellant/plaintiff had argued that some part of the land has been auctioned by the State and that the State also had no right to auction the land by treating it to be a outright property of the State.

31. The aforesaid assertion is also misconceived, because it has been duly noted by the Trial Court in paragraph 37 of the judgment under challenge that the auction was given only to cultivate the land for one year. The auction has not been shown to be an auction of rights of title in the property. No documents in that regard have been placed on record by the plaintiff that in what manner the auction has taken place. There cannot be any doubt to the proposition that the title cannot be auctioned because the land shall belong to the temple, and at the most, cultivation rights can be given for some specified period. There cannot be any auction beyond that, and indeed, nothing is on record to indicate that any auction beyond that limited right has been carried out.

32. Therefore, the plaintiff/appellant has rightly been non-suited by the Trial Court and this Court does not perceive any factual or legal error in the aforesaid judgment and decree passed by the Trial Court.

33. Resultantly, the appeal fails and is **dismissed**.

(VIVEK JAIN)
JUDGE