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Case Comment: Sri Ganapathi Dev Temple Trust v Balakrishna Bhat: Possession and Occupancy in Temple Property - A Miscellaneous Question Answered

Rahul Jain[a]

[a]Symbiosis Law School, Noida, India

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INTRODUCTION

The matter *Sri Ganapathi Dev Temple Trust v Balakrishna Bhat*[1] came up for consideration before the Hon'ble Supreme Court of India as an appeal against the order passed by the Division Bench of Hon'ble High Court of Judicature at Karnataka on 14th November 2007. The matrix of facts is such that Baba Bommayya Bhat was the acting archak of the appellant temple and enjoyed possession of the agricultural land i.e., the suit property, which he had been cultivating since 1969. Consequently, his son, Late Balakrishna Bhat, who happens to be the husband of Respondent No. 1(a) and the father of Respondents No. 1(b)-(e), continued to enjoy such possession, and accordingly, his name was entered into revenue records. A house was constructed by him in 1994 post applicable permissions from the Panchayat. Following his

[1] *Sri Ganapathi Dev Temple Trust v Balakrishna Bhat* (2019) 9 SCC 495

demise, the Respondents continued to reside in the said property, claiming to be 'deemed tenants' as per Section 4[2] of the Karnataka Land Reforms Act, 1961.

Vide amendments to the Act of 1961 in 1974, properties so possessed by tenants before the notified date were to be vested with the State Government[3]; thus, requiring tenants to apply for registration as occupants of the land[4]. However, due to reasons best accrued to law, the Respondents' applications were rejected both by the Land Tribunal[5] vide order dated 28/1/1981 and the Assistant Commissioner[6] vide order dated 15/03/2000. However, before such orders, on the presumption of deemed tenancy of the Respondents, the Government's name had been entered into the records. Though not given effect, the Assistant Commissioner took cognizance of such facts and ordered the removal of the Government's name from the record. Thereafter, the appellants approached the Tahsildar, who upon due inquiry, got the Government's and Balakrishna Bhat's name removed from the records and in place, the Appellant vis the temple's name was entered into the record-of-rights vide valid mutation entry and; such directions issued by the Tahsildar were confirmed by both the Assistant Commissioner and the Deputy Commissioner.

As opposed to the aforesaid orders, the Respondents approached the Karnataka High Court, wherein though initially, the Single Judge dismissed their application, the Division Bench ordered in favour of them, merely on the ground that the Respondents had got their house constructed upon the property and thereafter, had been in peaceful possession of such property. This ruling has been challenged by the Appellants before the Hon'ble Supreme Court of India.

The case therefore deals with the rights of an archak in temple properties and the extent to which, such rights extend. Also, it has been discussed as to whether reliance placed upon distinct grounds on separate occasions for claiming relief can be entertained by law. Most important, the Court has dealt with the question of 'actual possession' supersedes 'unauthorised occupancy'.

[2] Karnataka Land Reforms Act 1961, s 4
[3] Karnataka Land Reforms Act 1961, s 44
[4] Karnataka Land Reforms Act 1961, s 45
[5] Karnataka Land Reforms Act 1961, s 48A
[6] Karnataka Land Reforms Act 1961, s 77A

We shall try to understand how the Hon'ble Supreme Court of India decided this case, the rationale adopted by it, and the interpretation adopted by it for that purpose. A rather contemporary matter, the case holds key significance in the domain of occupancy rights in cases of temple properties.

ISSUES

1. Whether entries made in the name of the Respondents into the revenue records, in respect of the Ganapathi Dev Temple, are correct.
2. Whether the Respondents are entitled to possession and occupancy rights in the suit property.
3. Whether the impugned order passed by the Division Bench of the High Court of Judicature at Karnataka is liable to be set aside.

RULES

- Section 2(34)[7], Karnataka Land Reforms Act, 1961
- Section 4[8], Karnataka Land Reforms Act, 1961
- Section 44[9], Karnataka Land Reforms Act, 1961
- Section 45(1)[10], Karnataka Land Reforms Act, 1961
- Section 48-A[11], Karnataka Land Reforms Act, 1961
- Section 133[12], Karnataka Land Revenue Act, 1964
- Section 127[13], Karnataka Land Revenue Act, 1964
- Section 128(1)[14], Karnataka Land Revenue Act, 1964
- Section 129[15], Karnataka Land Revenue Act, 1964

[7] Karnataka Land Reforms Act 1961, s 2(34)
[8] Karnataka Land Reforms Act 1961, s 4
[9] Karnataka Land Reforms Act 1961, s 44
[10] Karnataka Land Reforms Act 1961, s 45(1)
[11] Karnataka Land Reforms Act 1961, s 48A
[12] Karnataka Land Revenue Act 1964, s 133
[13] Karnataka Land Revenue Act 1964, s 127
[14] Karnataka Land Revenue Act 1964, s 128(1)
[15] Karnataka Land Revenue Act 1964, s 129

- Rule 19[16], Karnataka Land Reform Rules, 1974
- Rule 26-C[17], Karnataka Land Reform Rules, 1974

ARGUMENTS FROM BOTH THE PARTIES

Appellant:

- The primary ground for preferring this appeal is that the Division Bench of the Hon'ble High Court of Karnataka failed to take into account and appreciate the material on record properly.
- Further, they contend that on two separate occasions, i.e. before the Land Tribunal and the Assistant Commissioner, their right to occupancy had already been decided in negative.
- Emphasis has been placed upon the fact that Respondent No. 1(b) himself admitted before the Land Tribunal that they were not cultivators of the land and had no specific authorisation for occupancy therein.
- Also, it was pointed out that in the year 2000, when the Assistant Commissioner ordered the removal of the Government's name from the revenue records, no objection had been raised by the Respondents.
- The Appellants reasoned behind their non-vigilance that they drew the genuine impression that when the rights of the Respondents had been negated, the Revenue authorities would upon their action, make corrections in the revenue records in their favour, which due to reasons best known, did not happen.
- The Appellants claimed that the Respondents were using their trusteeship to make personal gains, with sheer disregard towards the interest of the temple.

[16] Karnataka Land Reform Rules 1974, r 19
[17] Karnataka Land Reform Rules 1974, r 26C

Respondents:

- The sole ground for defence is that the Respondents have been in peaceful possession of the suit property since the 1970s and even constructed a house therein in 1994, in which they have been residing.
- The claim of the Respondents is in the capacity of possessors by way of construction of their house in the land, and not, as cultivators.
- They reiterated their stance by emphasising that they were entitled to the possession of the suit property owing to their being archaks ever since their predecessor's lifetime.
- The conclusive stance of the Respondents, backed in law, was they were entitled to claim relief under Section 133 of the Karnataka Land Revenue Act 1964 i.e. a presumption in favour of their entry in the revenue-records being true.

RATIO

A temple deity is to be treated akin to a minor, i.e., certain persons acting on behalf of it as trustees, ought to act for the benefit of the deity, and if such person's conduct is such as prejudicial to the interest of the temple, and inclined towards the personal interest of such persons, it would not be binding upon the temple. Entries ought to be made in revenue records only upon proven tenancy rights and not based on unauthorised occupancy, whatever the nature of construction.

JUDGEMENT

The Hon'ble Court, at the outset, observed that the claim of the Respondents had twice been rejected by the Land Tribunal and the Assistant Commissioner. It rejected their claim of being included in the revenue records, stating that since they had initially failed to get tenancy rights in the capacity of agriculturalists, an attempt was now being made on the basis of a constructed house. It further expressed its discontentment with the fact that how a house had been constructed over a piece of land, where there was no established right in the Respondents. In this reference, it was further observed that the entry made in the name of the State Government

was also invalid since some kind of tenancy was a pre-requisite under Section 44[18] of the Karnataka Land Reforms Act 1961 which was never established in the first place.

It was further observed in reference to the trusteeship rights of the Respondents that it was not disputed that they were the archaks of the temple and were responsible for its management and that the suit property belonged to the appellant temple. However, it was held that such rights were to be used but for the protection of the deity and not to make personal gains or take over the occupancy rights, which could conveniently be done in the guise of trusteeship. In any such situation, where the archak was acting prejudicial to the interest of the temple, such an outcome was not binding on the temple and could be challenged by any third person like a worshipper, who was so interested in the protection of the temple. Thus, in the present context, it observed that the Managing Trustee was right in bringing proceedings on behalf of the temple, and so, any wrongful entry made in the revenue records was not binding upon the temple, and liable to be set aside. In this way, it refused to conform with the view taken by the Division Bench of Karnataka High Court in *Balakrishna Bhat v Sri Ganapathi Dev Temple Trust*[19].

In the context of occupancy rights, the Court observed that in order to assert any such right, there ought to have been due compliance on the part of the Respondents. Viewing the provisions of the Karnataka Land Revenue Act 1964, it took note of the fact that following Baba Bommayya Bhat's demise, Balakrishna Bhat's name had been entered into the records, however, he or any of the Respondents failed to make any report, as required under Section 128[20] of the Act, to the prescribed officer, proving the acquisition of any right or title over the suit property. Thus, the Record of rights maintained under Section 127[21] for the period concerned show that the Respondents failed to make due compliance with the law in the assertion of their occupancy rights.

In furtherance of the same, the Court also pointed out that the Respondents could not escape answerability for non-compliance by stating that their belief of the land being vested in the

[18] Karnataka Land Reforms Act 1961, s 44
[19] *Balakrishna Bhat v Sri Ganapathi Dev Temple Trust* (2007) SCC OnLine Kar 743
[20] Karnataka Land Revenue Act 1964, s 128
[21] Karnataka Land Revenue Act 1964, s 127

Government, since they placed no objections against either the Order dated 28/01/1981 passed by the Land Tribunal or the Order dated 15/03/2000 passed by the Assistant Commissioner, holding the suit property to be belonging to the Temple and not a subject matter of the Karnataka Land Reforms Act, 1961. Upholding entry in the name of the appellant temple in records, it laid down as a rule, that where 'unauthorised occupancy' had been admitted as the means of possession, the property could not be vested with the State Government.

Finally, setting aside the reasoning adopted by the Division Bench in passing the impugned judgement, the Court observed that the exemption under Section 133[22] could not be granted in the instant case, since no valid entry could be made in the record-of-rights in the absence of a corresponding mutation entry, which the Respondents have failed to establish in their favour. Thus, the entry in the name of the Respondents having been made without any basis as against the Appellants, whose name had been legally entered, it refused to grant the benefit of the aforesaid section to the Respondents.

Accordingly, the Hon'ble Court allowed the appeal and upheld the orders passed in favour of the Appellants by the Revenue authorities between 2003-2006, thereby setting aside the impugned judgement. It thus held that the Respondents' admission towards having no rights over the suit property furnished sufficient material for it to give the verdict.

INTERPRETATION BY THE HON'BLE JUDGES

To arrive at the aforesaid conclusion, the bench placed gave an apt interpretation of the legal nature of a temple deity and the property rights associated with a temple in general. While acknowledging the right of archaks to look after the temple property, it specified the extent to which such rights were extended. Heavy reliance was placed upon the judgement delivered in *Bishwanath v Radha Ballabhji*[23], wherein a well-settled position in respect of temple deities was given. The Court made it a point that an idol was a juristic person, and since it could not act itself, it was generally represented by the Shebait. However, it set the limit as being that such

[22] Karnataka Land Revenue Act 1964, s 133
[23] *Bishwanath v Radha Ballabhji* AIR 1967 SC 1044

Shebait/Archaka could act only for the protection and preservation of the temple and not in any manner prejudicial to its interest.

In this reference, it recognised the rights of worshippers, drawing a similarity between an idol and a minor, clarifying that any such right of representation was justified to be given on an ad-hoc basis, to protect its interest. It was thus recognised that the Archaka was clothed with such power as could be used to make a wrongful gain in the guise of the trustee, and so, any such action would not be binding upon the temple, since the protection of its interest, just like a minor, held paramount importance.

In my firm opinion, the analogy and reasoning adopted by the Hon'ble Bench is wholly justified since a minor and a deity, in actuality, possessed alike characteristics. Both, although possessing legal rights, are incapable of exercising such rights. In such circumstances, any trustee, acting on their behalf, ought not to be allowed to take advantage of the situation, and their interest must be protected. In the course of trusteeship, if any such act is committed by the trustee, the same should not hold good in law, for it is an act actuated by personal gain.

CRITICAL ANALYSIS

It has been highlighted that court proceedings and justice are not a matter of whims and fancies of the parties, such that their grounds be modified if the previous ones did not do well. The purpose of appellate jurisdiction of the higher judiciary is to examine based on grounds already claimed, if any error has been committed by the courts in delivering justice. Thus, where the Respondents could not attain relief on grounds of being cultivators and tenants, they could not claim on the basis of occupancy by way of construction within the suit property.

Further, it is reflected within the ruling, that one ought to be vigilant and compliant with the law if he wants to get his rights enforced. For instance, in this case, had the Respondents have been cognisant of legal obligations, they would have submitted reports to the concerned person and got a mutation in their favour. Although the same was not permissible, the property being that of the temple, the conduct of the Respondents reflects that they disregarded the law in place, and thus, were disabled from claiming any exemption under the Act.

Furthermore, as discussed in detail above, Archakas and the like persons must be informed of the facts that their identity, though merged with that of the temple, the same cannot be used for any purpose, detrimental to the interest of the temple. Also, in such situations, the locus standi arises in favour of any person, who is so concerned about the protection of the temple's interest. Thus, a juristic person is not to be placed in a situation, where it lays at the disposal of its trustee, for it continues to enjoy its distinct legal status.

CONCLUSION

Given the aforesaid discussion, it is evident how the Hon'ble Supreme Court of India, so as to serve the ends of justice, not only corrected the erroneous error committed by the High Court of Judicature at Karnataka but also examined the matter, underlying concepts and the relevant laws on merits and in entirety. The Appellants were granted relief at the apex level, thus upholding their entry into the revenue records in respect of the suit property. Further, by ordering against the Respondents, it was made evident that no matter what the nature of occupancy is, so long as it is not authorised by law or backed by any rights, the same cannot be sustained. In totality, the judgement holds significant importance, for it establishes beyond a reasonable doubt, that no right is absolute and must be exercised within reasonable limits, or be liable to be set aside, for instance, the rights of the Respondents, which were nullified by the court of law. Further, no factual circumstance stands above the law, and unless a right has been legally vested in someone, there can be no action based on such a right.