IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ALOK AWASTHI

FIRST APPEAL No. 204 of 2007

SANAT KUMAR AND OTHERS

Versus

MURTI SHRIRAM MANDIR NELKHEDA TH.SANRAKS

Appearance:

Shri A.S. Garg, learned Senior Advocate assisted by Shri Aditya Garg, learned counsel for the petitioner [P-1][LR/S].

Shri Anand Soni, learned Additional Advocate General assisted by Dr. Amit Bhatia, Govt. Advocate for the respondent.

Heard on : 19.09.2025

Pronounced on : 28.11.2025

JUDGMENT

By way of this first appeal under Section 96 of the Code of Civil Procedure, 1908 (hereinafter referred as to "C.P.C.") the judgment and decree dated 14.03.2007 passed by the learned Additional judge to the Court of Additional District Judge, Agar, District Shajapur in Civil Case No. 10-A/2004 is called in question, whereby, the judgment and decree dated 10.01.1997 (wrongly mentioned in impugned order as 10.11.1997, hence, further, it be treated as 10.01.1997) passed by the Additional District Judge, Agar District Shajapur in Civil Case No. 42-A/1996 has been declared illegal and void.

2) The facts necessary for disposal of the present appeal in brief, are that the plaintiff/respondent Murti Shri Ram Mandir Nalkheda filed the civil suit before the learned Trial Court, seeking a relief to declare the judgment and decree dated 10.01.1997 as void, passed in Civil Suit No. 42-A/1996 by the same Court, as the said judgment was obtained by fraud, misrepresentation and concealment of facts and several documents as well as the said judgment was frustrated due to non-joiner of necessary parties as the plaintiff/respondent was not arrayed as a party in the Civil Suit No. 42-A/1996.

3) It is pertinent to mention here that the plaint was filed against the respondent Gokul Das S/o Shri Narayan Das, however, due to his demise during the pendency of the civil suit, the legal representatives of Gokul Das was impleaded as parties in the suit, which are the present appellants in this appeal.

4) In the present appeal, the land in dispute is a land bearing Survey Nos. 39 and 40 samvat 2043 of Kasba Nalkheda and Survey Nos. 29 and 24 semvat 2054 of village Dokarpura, Tehsil Nalkheda as well as a house Dharamshala and Rammandir constructed in the area falling within the ambit of Nagar Panchayat Nalkheda. For the sake of convenience, these all properties, here and after shall be referred as disputed property. In the civil suit Shri Ram Mandir Murthy has been considered as a minor due to which its guardian is being considered as the State of Madhya Pradesh, has filed the civil suit. The original plaintiff Murti Shriram Mandir owns a temple in which the idol of Lord Shri Ram is worshipped as well as there is a

Dharamsala belonging to the temple. In this temple, a math (मठ) was established where the *Guru Shishya* is practised and as per this tradition, after the demise of the Guru, the senior most disciple or *Chela* takes upon the responsibility to manage the affairs of the temple and its property. As per the said tradition, the last Guru of the math (मठ) was Guru Narayan Das, who got the authority from his Guru Mathura Das. Guru Narayan Das died in the year 1965, however, during his lifetime, he had tried to siphon off and alienate the properties of Mandir Shri Ram Murti, due to which the State of Madhya Pradesh constituted an Aukaf Committee.

5) It was also pleaded that the Guru Narayan Das in the year 1965, filed a Civil Suit No. 52A/1965 against the State of Madhya Pradesh and Aukaf Committee but during the pendency of this civil suit, the Guru Narayan Das died due to which the Gokul Das, by claiming himself as the legal heir or successor of Guru Narayan Das continue the legal proceedings of the aforementioned suit on the basis of a Will. However, the said Will produced by the Gokul Das was already declared as false and fabricated by the Civil Court in Miscellaneous Civil Case No. 9A/1996, despite which Gokul Das claimed that he is the Pujari of Shri Ram Murti Mandir.

6) On the basis of the said Will, which had already been declared false and fabricated, Gokuldas filed an application before the Court of Nayab Tehsildar, Nalkheda seeking relief that he be declared as pujari of the Shri Ram Murti Mandir. The above application was registered bearing No. 51/b/6/74/-75 in which the Nayab Tehsildar has ordered to appoint Gokul as Pujari of the Shri Ram Murtimandir, however, the said order was declined by

the Court of Commissioner as he found him incapable of providing such services. The order passed by the Commissioner has attained finality as it was not challenged before any Court.

7) It was further pleaded that subsequently, Gokuldas filed Civil Suit No. 17A/1977, before the Civil Judge First Class, however, the said Civil Suit was returned back by the Court on 13.02.1983 stating that the Aukaf Committee had to be impleaded as necessary party. The original defendant and the predecessors of the present appellants i.e. Gokul Das filed a Civil revision against the said order before this Court.

8) The plaintiff, Shri Ram Murtimandir in the plaint has averred that the defendants have obtained the judgment & decree dated 10.01.1997 passed in Civil Suit No. 42-A/1996, by way of fraud and by concealing the material facts from the Trial Court, that, Gokul Das is not the Pujari of the said Mandir as well as Gokuldas also deliberately suppressed the fact that he has earlier filed a Civil Suit No. 50-A/1965 which was returned owning to not impleading Aukaf Committee as a party in the Civil Suit. Gokul Das also suppressed this fact that the plaintiff here in the Shri Ram Murti Mandir is a minor as well as he deliberately did not implead the present appellant in Civil Suit No. 52-A/1996, therefore only Gokul Das had updated the order and decree dated 10.01.1997 by fraud as well as the order was suffering from the irregularity of non-joinder of necessary parties.

9) Gokuldas in his lifetime have married twice but as per the tradition of Guru Shishya Parampara only that disciple could inherit the seat of a Guru who remained unmarried. The appellant averred that even in case

if it could be assumed that Gokul Das owns all the property of Shriram Murti Mandir cannot be believed because he failed in following the discipline of Guru Shiksha Parampara, since he was married twice. Therefore, Gokul Das could not be considered as the owner of the land belonging to Shri Ram Murti Mandir as he was not even the Pujari or the true disciple of Guru Narayan Das.

10) Further, after the death of Guru Narayan Das, since the idol of Shri Ram Murti, Mandir is considered as minor, the land belonging to the mandir or the appellant vests in the ownership of the State Government. The learned Trial Court in the impugned order has also observed that the dispute property was also being auctioned by the Sub Divisional Officer in which the son of Gokul Das obtained the lease of the disputed property for a period of one year for doing agricultural activities. Therefore, the defendant had also proper knowledge that the disputed property belongs to the State Government, despite of which they suppressed this effect from the learned Trial Court and has obtained judgment and decree dated 10.01.1997.

11) The present appellant in their written statement has denied the averments made by the plaintiff in their Civil Suit and has preliminary objected that the suit filed by the plaintiff is not maintainable because the suit is barred due to the principles of *res judicata* as the points averred in the civil suit has already been adjudicated by the learned Trial Court in Civil Suit No. 42A/1996.

12) The present appellant since raised the issue of maintainability by agitating the plea of *res judicata*, therefore, the learned Trial Court by

passing the order dated 30.11.2006 decided the preliminary issue in negative and found the present suit to be maintainable as the principles of *res judicata* are not attracted in the present case.

13) The present appellant in their written statement has denied the claim of the State Government over the disputed property and has also denied the fact that never any Aukaf Committee was constituted. The present appellant also submitted that Gokul Das has never produced any false and fabricated will of his Guru Narayan Das, and the plaintiff have produced the present Civil Suit on false claims and the order and decreed dated 10.01.1997 passed in Civil Suit No. 42A/1996 was not obtained from any fraud. Therefore, the suit filed by the plaintiff deserves to be dismissed.

14) The learned Trial Court after appreciating all the facts and documents produced by both the parties framed several issues in which the Trial Court found out that Gokul Das was never the owner of the disputed property and Gokul Das, and his legal hears obtained the judgment and decree dated 10.01.1997, by concealing material facts as well as the disputed property after the death of Guru Narayan Das vested entirely in the State Government. Thereafter, they learned trial court by reaching on this conclusion passed the judgment dated 14.03.2007 by allowing the plaintiffs claim. Hence, this appeal has been filed.

Submissions on behalf of the Appellants

15) Shri A.S. Garg, learned Senior Counsel for the appellants has contended that the impugned order is contrary to law and facts on record and suffers from serious infirmities in appreciation of evidence. The learned

Trial Court committed grave error in declaring the earlier decree dated 10.01.1997, passed in Civil Suit No. 42-A/1996, as null and void. According to the appellants, the said decree was passed after due trial and on the basis of evidence adduced before the Court, and there was no element of fraud, suppression or misrepresentation. Once the decree dated 10.01.1997 had attained finality, the learned Trial Court could not have reopened the matter by entertaining a fresh suit.

16) Learned Senior Counsel has further contended that the present proceedings are also hit by the principles of *res judicata*, since the same subject matter and issues had already been adjudicated between the parties in Civil Suit No. 42-A/1996. It was argued that the learned Trial Court erred in holding that the earlier decree was obtained by suppression or fraud, in absence of any conclusive material to that effect.

17) It is further submitted that the learned Trial Court has erred in holding that Gokuldas was never the lawful owner or Pujari of the disputed property. The appellants relied upon the Khasra entries, Kisthbandi Khatauni and other revenue documents (Exhibits D-1 to D-68) to submit that these entries reflect continuous possession and management of the temple lands by late Gokuldas and, subsequently, by his legal representatives.

18) It has also been argued that the findings of the learned Trial Court in respect of the alleged forged Will is wholly perverse and unsustainable. The respondents failed to produce any conclusive evidence establishing forgery. No criminal conviction was ever recorded against Gokuldas in this regard, and the handwriting expert's report (Exhibit P/14)

could not have been relied upon in absence of proper proof and cross-examination. The Trial Court has also erred in disqualifying Gokuldas from the position of Pujari merely because he had married twice in his lifetime. It was submitted that there exists no legal or statutory restriction barring a married person from performing the functions of Pujari, and the Trial Court's observation based on "Nihang" custom was speculative and without legal foundation. Learned Trial Court misdirected itself in holding that the property of the temple vested with the State Government. It was contended that no notification, order or record evidencing such vesting was ever brought on record. The temple, it was urged, was a private religious institution managed by the guru-chela lineage of Narayandas and Gokuldas, and the State had no ownership or supervisory right over it.

19) Learned Senior Counsel has also contended that the trial court's reliance upon Exhibits P/1 to P/25 was erroneous, as most of these documents were uncertified or irrelevant. The entries of the Aukaf Department, relied upon by the trial court, were, according to the appellants, internal administrative papers having no evidentiary value. On the aforesaid grounds, learned counsel for the appellants urged that the impugned judgment and decree dated 14.03.2007 deserves to be set aside, and present petition be allowed.

20) To bolster his contentions, he has placed reliance upon the judgments **Sushama Roy Vs. Atul Krishna, AIR 1955 CAL 624, Ratanlal @ Babulal Chunilal Samsuka Vs. Sundarabai Govardhandas Samsuka (D.) Th. Lrs & Ors.,** decided **on 22.11.2017** in **Civil Appeal No. 6378/2013, State of**

M.P., Vs. Murti Shri Ram Mandir decided **on 12.11.1990** in **Second Appeal No. 315/1990, State of M.P. Vs. Jagannath** decided **on 05.12.1990** in **Second Appeal No. 357/1990, State of M.P. Vs. Keshar Bai and Others,** decided **on 16.12.2008** in **Second Appeal No. 16.12.2008.**

Submissions on behalf of the Respondents

21) On the other hand, Shri Anand Soni, learned Additional Advocate General appearing on behalf of respondents supported the impugned judgment and decree and submitted that the findings of the learned Trial Court are well-reasoned, based on cogent evidence, and call for no interference. He has submitted that the judgment and decree dated 10.01.1997 was obtained by the defendants by playing fraud upon the Court, deliberately suppression of material facts, and by non-joinder of necessary parties. Neither, the plaintiff-deity, Murti Shri Ram Mandir, Nalkheda nor the Aukaf Committee, was made a party to that suit despite its known control over the temple property.

22) He has also submitted that the plaintiff-deity being a juristic person and perpetual minor, was rightly represented by the State Government through the Sub-Divisional Officer as guardian, and the learned trial court has rightly upheld the maintainability of the suit. It was further urged that the record clearly establishes that Gokuldas was never validly appointed as Pujari. His appointment made by the Naib Tehsildar was set aside by the Commissioner, and that order attained finality. The Will relied upon by Gokuldas to claim succession from his Guru Narayandas was judicially declared to be forged. Exhibits P/12 and P/14 being the criminal complaint

and handwriting expert's report amply proved the forgery, and even the defence witness Jagdish, son of Gokuldas, admitted that the will was fabricated.

23) It has also urged that decree dated 10.01.1997 having been obtained without impleading the most necessary and proper parties and by suppressing earlier judicial proceedings, is a nullity in law. In uphold his view points, he has placed reliance over the judgments **S.P. Chengalvaraya Naidu vs. Jagannath (1994) 1 SCC 1, A.V. Papayya Sastry vs. Government of A.P. (2007) 4 SCC 221,** and **Vishnu Vardhan vs. State of U.P., (2025 INSC 884)** whereupon fraud vitiates all judicial acts, and a decree obtained by fraud is nonest and void ab initio.

24) Further, he has relied upon the judgment of the Hon'ble Supreme Court in **State of M.P. vs. Pujari Utthan Avam Kalyan Samiti** reported in **(2021) 10 SCC 222**, to contend that a *Pujari* is merely a manager of the deity and does not acquire any proprietary rights over the temple property. The deity, being a juristic person, alone is the owner of its property, and the Pujari's name can at best appear in the remarks column of the revenue records.

25) Reliance was also placed on **Mst. Kanchaniya vs. Shiv Ram, (1992 Supp (2) SCC 250) and Trust of Shri Kal Bhairav vs. Maya Bai (FA No. 524/1998, MP High Court),** wherein it has been consistently held that a Pujari has no authority to alienate or transfer temple property, and any such transaction is void ab initio.

26) He has also submitted that the revenue entries (Exhibit P/10)

from the year 1972 recorded the lands as "Murti Shri Ram Mandir Mafi Okaf', thereby conclusively showing ownership of the temple. The appellants' reliance on revenue records showing possession of Gokuldas was misplaced, as such entries confer no title, in view of the decision of the Hon'ble Apex Court in **Union of India vs. Vasavi Cooperative Housing Society Ltd., (2014) 2 SCC 269**.

27) It was further urged that the plea of res judicata was rightly rejected by the learned Trial Court by order dated 30.11.2006, which attained finality. A decree obtained by fraud can never operate as res judicata, as held in Papayya Sastry and Vishnu Vardhan (supra).

28) Learned counsel also submitted that the conduct of Gokuldas, who had solemnised two marriages contrary to the celibate Nihang tradition of the math (मठ), rendered him ineligible to succeed as the spiritual head. Even his sons had taken the disputed land on lease from the Sub-Divisional Officer, thereby admitting the ownership of the deity and the State's role as guardian.

29) The findings of the learned Trial Court that the disputed property vested in the deity and, as guardian, in the State Government, are based upon proper appreciation of evidence. The judgment and decree dated 10.01.1997 having been obtained by fraud and suppression was rightly annulled. Under these circumstances, he has prayed for dismissal of the appeal as being devoid of merit and for affirmation of the judgment and decree dated 14.03.2007 passed by the learned Trial Court.

Findings and Discussion

30) I have heard learned counsel for the parties at length and have minutely examined the pleadings, oral and documentary evidence adduced before the Trial Court, the impugned judgment, and the record of the earlier proceedings culminating in the judgment and decree dated 10.01.1997.

31) Now, coming to the question that by whom a suit can be filed on behalf of temple/deity/idol. On tgis aspect, **Sushama Roy (supra)**, Hon'ble Apex Court has observed as under :-

> "In substance, the members of the family in the case of private debattar are the real beneficiaries and it is necessary and desirable that their views should be ascertained before any person other than the shebaits is appointed to represent the deity. Even where an ex parte order has been made, it will be possible and proper to issue notices on all interested parties and to cancel the ex parte order in the interest of the deity.
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> 10. On the whole I am of opinion that ordinarily the interests of the deity require that nobody other than a shebait be allowed to institute a suit in the name of the deity without a previous order of the Court appointing him to represent the deity."

32) In the above case, a shebait can filed a suit in the name of the deity without a previous order of the Court appointing him to represent the deity, but in the case at hand, initially, Gokuldas filed a civil suit before the Trial Court, who took the responsibility to manage the affairs of the temple and its property being senior most disciple or *Chela*.

33) So far as the judgments **Ratanlal @ Babulal Chunilal Samsuka (supra), State of M.P. Vs. Jagannath (supra), State of M.P. Vs. Keshar Bai (supra)** are concerned, since the same are on different matrix, therefore, is of no help to the appellant.

34) The judgment State of **M.P., Vs. Murti Shri Ram Mandir** (supra) place by learned senior counsel for the appellant, wherein question was involved as the temple is public or private property and in that judgment the name of the pujaris were recorded as Manager and status of the pujaris, but, in the case at hand, the name of the respondents or their father, has not been recorded as Manager or status of the pujaris in the record.

35) It is a settled legal proposition of law that fraud vitiates even the most solemn judicial acts. In **S.P. Chengalvaraya Naidu vs. Jagannath [(1994) 1 SCC 1]**, the Hon'ble Apex Court held that a decree obtained by playing deception practiced on the Court, is void in the eyes of law. Similarly, in **A.V. Papayya Sastry and Ors. v. Government of Andhra Pradesh [(2007) 4 SCC 221],** it was reiterated that fraud is an overriding exception to all procedural and substantive rules, including limitation and res judicator. The following extract of the judgment is condign to quote here :-

"a judgment, decree or order obtained by playing fraud on the Court, Tribunal or Authority is a nullity and non est in the eye of law. Such a judgment, decree or order -by the first Court or by the final Court- has to be treated as nullity by every Court, superior or inferior. It can be challenged in any Court, at any time, in appeal, revision, writ or even in collateral proceedings.

The matter can be looked at from a different angle as well. Suppose, a case is decided by a competent Court of Law after hearing the parties and an order is passed in favour of the applicant/plaintiff which is upheld by all the courts including the final Court. Let us also think of a case where this Court does not dismiss Special Leave Petition but after granting leave decides the appeal finally by recording reasons. Such order can truly be said to be a judgment to which Article 141 of the Constitution applies. Likewise, the doctrine of merger also gets attracted. All orders passed by the

courts/authorities below, therefore, merge in the judgment of this Court and after such judgment, it is not open to any party to the judgment to approach any court or authority to review, recall or reconsider the order.

The above principle, however, is subject to exception of fraud. Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated. Such order cannot be held legal, valid or in consonance with law. It is non-existent and non est and cannot be allowed to stand. This is the fundamental principle of law.....".

36) Likewise, in the case of **Smriti Madan Kansagra Vs. Perry Kansagra, AIRONLINE 2020 SC 875,** Hon'ble Apex Court has rendered in its earlier judgment **Indian Bank vs M/S Satyam Fibres (India) Pvt. Ltd.** reported in **(1996) 5 SCC 550**, wherein it has been held as under :-

"21. In Smith v. East Elloe Rural Distt. Council the House of Lords held that the effect of fraud would normally be to vitiate any act or order. In another case, Lazarus Estates Ltd. v. Beasley, Denning, L.J. Said:

'No judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything.'

22. The judiciary in India also possesses inherent power, specially under Section 151 CPC, to recall its judgment or order if it is obtained by fraud on court. In the case of fraud on a party to the suit or proceedings, the court may direct the affected party to file a separate suit for setting aside the decree obtained by fraud. Inherent powers are powers which are resident in all courts, especially of superior jurisdiction. These powers spring not from legislation but from the nature and the constitution of the tribunals or courts themselves so as to enable them to maintain their dignity, secure obedience to its process and rules, protect its officers from indignity and wrong and to punish unseemly behaviour. This power is necessary for the orderly administration of the court's business.

23. Since fraud affects the solemnity, regularity and orderliness of the proceedings

> of the court and also amounts to an abuse of the process of court, the courts have been held to have inherent power to set aside an order obtained by fraud practised upon that court. Similarly, where the court is misled by a party or the court itself commits a mistake which prejudices a party, the court has the inherent power to recall its order."

Similar view has been adopted by Hon'ble Apex Court in the cases of **Saroja Vs. Chinnusamy (Dead) by Lrs and Another, (2007) 8 SCC 329, Union of India Vs. Others Vs. Ramesh Gandhi, (2012) 1 SCC 476, Union of India and Another Vs. K.C. Sharma and Company and Others, (2020) 15 SCC 209 and Yashoda (Alias Sodhan) Vs. Sukhwinder Singh and Others, (2022) 17 SCC 307.**

37) Therefore, it has been said that a judgment, decree or order obtained by fraud has to be treated as nullity, whether by the court of first instance or by the final court and it has to be treated as non est by every Court, superior or inferior. Recently, the same principle was emphatically reaffirmed in **Vishnu Vardhan v. State of Uttar Pradesh [2025 INSC 884]** , wherein the Supreme Court held that "*fraud unravels everything*" and that even the doctrine of merger cannot shield fraudulent acts.

38) Tested on these principles, the evidence on record unequivocally establishes that the judgment and decree dated 10.01.1997 passed in Civil Suit No. 42-A/1996 was procured by deliberate suppression and concealment

of material facts. The said suit was filed by Gokuldas in his individual capacity, without impleading the most necessary parties viz. (i) the deity Murti Shri Ram Mandir, Nalkheda, which is the real owner of the property, and (ii) the Aukaf Committee, which was earlier held to be a necessary party in proceedings concerning the same property. The deliberate omission of these indispensable parties is not a mere procedural lapse but a conscious act intended to mislead the Court.

39) Furthermore, Gokuldas, while filing the said suit, failed to disclose the pendency and outcome of earlier proceedings, including Civil Suit No. 52/1965 and Misc. Civil Case No. 9-A/1966, wherein his claim to succession through a will was rejected as false and forged. The suppression of these proceedings and the failure to disclose that his appointment as Pujari had been set aside by the Commissioner constitute acts of deception.

40) The trial court, after examining Exhibits P/12 and P/14, rightly found that the Will relied upon by Gokuldas was forged. Exhibit P/12 is the complaint filed before the criminal court, while Exhibit P/14 is the handwriting expert's report, both confirming that the signature and handwriting on the alleged Will of Guru Narayandas were fabricated. Even the sole defence witness, Jagdish (DW-1), son of Gokuldas, admitted in cross-examination that he was aware that the Will had been declared forged and that his father had no title document over the property.

41) These facts leave no room for doubt that the decree was obtained by fraud, concealment, and misrepresentation. Such a decree, being vitiated by fraud, is void ab initio and cannot confer any legal right upon the

appellants. The learned trial court's conclusion on this aspect is fully justified and calls for no interference.

42) The appellants have argued that the present suit was barred by the principle of res judicata as well as by Order XXIII Rule 3-A of CPC. Both contentions are unsustainable in law and on facts. The plea of *res judicata* was considered as a preliminary issue by the learned trial court and decided by a reasoned order dated 30.11.2006, holding that the subsequent suit was not barred. The said order attained finality. Even otherwise, it is settled law that the doctrine of *res judicata* cannot apply to cases where the earlier decree was obtained by fraud or concealment. The Supreme Court in **Papayya Sastry (supra) and Vishnu Vardhan (supra)** has held that fraud nullifies all procedural finality and that such decrees may be questioned at any stage, directly or collaterally.

43) The reliance on Order XXIII Rule 3-A of CPC is equally misplaced. The said provision prohibits a fresh suit challenging a compromise decree; however, in the present case, the judgment and decree dated 10.01.1997 was not a compromise decree but one obtained by suppression and misrepresentation. Moreover, the present suit was instituted by the deity, a distinct juristic entity which was not a party to the earlier suit. The bar under Order XXIII Rule 3-A of CPC, therefore, does not apply.

44) Consequently, the Trial Court was right in holding that the present suit was maintainable and not hit by either *res judicata* or Order XXIII Rule 3-A of PC.

45) The entire claim of the appellants rests upon the assertion that

Gokuldas and his legal heirs became owners of the disputed property. This contention is contrary to law as well as the record. The documentary evidence, particularly Exhibit P/10, the revenue entries of the year 1972, describes the property as "Murti Shri Ram Mandir Mafi Okaf', which conclusively shows that ownership vested in the deity and not in any individual. The appellants have relied heavily on revenue documents such as Khasra Khatauni and Kisthbandi records (Exhibits D/1 to D/68), however, these documents merely show possession for management purposes and cannot confer ownership.

46) Hon'ble Apex Court in the case of **Union of India v. Vasavi Cooperative Housing Society Ltd. [(2014) 2 SCC 269]** has held that revenue records only carry presumptive value regarding possession and cannot establish title. The plaintiff must succeed on the strength of their own title, not on the weakness of another's case. In the present matter, the appellants have failed to produce any title deed, grant, or valid order conferring ownership rights upon Gokuldas.

47) On the contrary, the evidence shows that even during his lifetime, Gokuldas acknowledged the ownership of the temple and the State's supervisory role. The eviction proceedings against Leelabai (Exhibit P/11) ended in dismissal on the ground that Gokuldas was only a Pujari and not the owner. The sons of Gokuldas also obtained lease of the same land from the SDO, thereby admitting the ownership of the deity.

48) In view of the above, the learned trial court rightly concluded that Gokuldas never had any ownership or proprietary right in the disputed

land and was, at best, a manager or servant of the deity.

49) The deity Murti Shri Ram Mandir, Nalkheda is a juristic person capable of holding property and suing or being sued through a lawful guardian. Being a perpetual minor, it requires representation through a competent authority. The learned trial court has rightly held that the suit was instituted through Authorized Person by the Collector i.e. Sub-Divisional Officer as guardian of the deity, which is legally permissible.

50) The principle that a deity is a perpetual minor has been long recognized in Hindu law. The State, as *parens patriae*, may act as protector of the deity's interests in cases of mismanagement or fraud. The Trial Court's reliance, upon this doctrine is consistent with precedents and statutory duty under the M.P. Land Revenue Code and the principles governing religious endowments.

51) The contention of the appellants that the State had no locus to represent the deity is thus untenable. The State has not claimed ownership in its own right but only exercised protective guardianship over endowed property to prevent its alienation. The learned trial court, therefore, committed no error in holding that the suit was properly instituted and maintainable.

52) The legal character of a *Pujari* and the ownership of temple property have been conclusively settled by authoritative pronouncements. In **State of M.P. v. Pujari Utthan Avam Kalyan Samiti** reported in **[(2021) 10 SCC 222],** the Hon'ble Apex Court held that the deity is the juristic owner of the temple land, while the Pujari is only a manager or custodian. The Court

further clarified that the Pujari's name may appear only in the "remarks" column of the revenue records and that no Bhumiswami rights can be conferred upon him. Relevant paragraphs of the judgment are as under :-

> “26. Taking into consideration the past precedents, and the fact that under the Gwalior Act, Pujari had been given the right to manage the property of the temple, it is clear that does not elevate him to the status of Kashtkar Mourushi (tenant in cultivation).
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> 27. The ancillary question which arises is whether the priest is Inamdar or Maufidar within the meaning of Section 158(1)(b) of the Code. Such provision contemplates that the rights of every person in respect of land held by him in the Madhya Pradesh region i.e. area of erstwhile Gwalior and Holkar as a pakka tenant or as a Muafidar, Inamdar or concessional-holder shall be protected as Bhumiswami. The priest does not fall in any of the clauses as mentioned in Section 158(1)(b) of the Code. The muafi was granted to the property of temples from payment of land revenue. Such

> muafi was not granted to a manager. Even Inam granted by the Jagirdar or the ruler to a priest is only to manage the property of the temple and not confer ownership right on the priest. Therefore, in view of the judgment in Panchamsingh and also of this Court in Kanchaniya, the priest cannot be treated to be either a Maufidar or Inamdar in terms of the Madhya Bharat Land Revenue and Tenancy Act, Samvat 2007 (Act 66 of 1950) or in terms of the Gwalior Act. Since the priest cannot be treated to be Bhumiswami, they have no right which could be protected under any of the provisions of the Code."

53) This view finds earlier support in **Mst. Kanchaniya v. Shiv Ram, [1992 Supp (2) SCC 250],** which interpreted the Kawaid Maufidaran of the erstwhile Gwalior State and held that a Pujari has no transferable or heritable rights and cannot alienate temple property. Similar findings were rendered in **Trust of Shri Kal Bhairav v. Maya Bai (F.A. No. 524/1998, MP High Court) and Raghunandan v. State of M.P. (S.A. No. 464/2001, MP High Court),** affirming that muafi land granted for worship vests in the deity and not in the Pujari.

54) Applying these principles to the present case, the learned trial court was correct in holding that Gokuldas, even if he performed religious

functions, was merely a manager without ownership. His personal claim of Bhumiswami rights was contrary to law and the very nature of religious endowment.

55) The evidence further demonstrates that Gokuldas entered into two marriages, that constitutes a material breach/violation of the established tradition of celibacy observed within the Nihang tradition of this specific math (मठ). The Trial Court rightly observed that this conduct disentitled him from claiming spiritual or managerial succession from Guru Narayandas. His deviation from the discipline of the order itself disqualified him from asserting any proprietary or priestly lineage rights.

Conclusion

56) This Court, upon a holistic evaluation of the entire record, finds that the findings recorded by the learned Trial Court are well supported by the evidence and consistent with settled principles of law. It was correctly determined that the judgment and decree dated 10.01.1997 was void ab initio, the same having been obtained by fraud and suppression of material facts. The property in question lawfully vests in the deity Murti Shri Ram Mandir, Nalkheda, with the State acting as its guardian.

57) In view of foregoing discussion, the Trial Court's judgment and decree dated 14.03.2007 is affirmed in its entirety. The appeal is accordingly **dismissed** for being devoid of merits/substance. No order as to cost.

Pending, I.As., if any, stands closed.

Certified copy, as per rules.

(ALOK AWASTHI)
JUDGE

Vindesh