

Challenge in this revision petition under Article 227 of the Constitution of India is made against the order dated 30.09.2010 passed in Misc. (A) No. 23/2009 by the learned Civil Judge, Dibrugarh holding that since both the parties under the litigation have unitedly formed a new Committee, the purpose of the appeal has become infructuous, thereby confirmed the order dated 19.10.2009 passed by the learned Munsiff No. 1, Dibrugarh in Misc. (J) Case No. 33/2009 arising out of Title Suit No. 53/2009 whereby and whereunder the learned trial court has directed that within a period of two months from the date of the order, the petitioner Committee, the respondent herein in the revision petition shall convene an extra ordinary general meeting inviting all the registered members of the Dibrugarh Buddha Samity for formation of the Managing Committee of the Samity afresh and thereupon the members present shall form a new Committee in accordance with the provision of the Constitution, till formation of the new committee as directed, the opposite parties i.e., the petitioners herein, in the revision petition shall not disturb the entrance and organization of regular meeting by the Committee headed by Shri Sunil Baruah and Sri Uzzal Baruah as per the resolution dated 12.10.2008, further restraining the petitioners from interfering the respondent Committee from discharging the duties of the Committee as per the constitution of the Samity.

2. The brief facts needed to be discussed for disposal of the instant revision petition at the motion stage are as follows:

The Dibrugarh Buddha Samity is the plaintiff in the Title Suit No.53/2009 represented by its present President and Secretary Shri Sunil Baruah and Shri Uzzal Baruah respectively wherein the following reliefs have been sought for :

(i) For declaration that the plaintiff Committee is constituted lawfully and got legal entity to conduct the Dibrugarh Buddha Samity;

(ii) For declaration that the defendants have no right to interfere with the activities of the plaintiff Committee;

(iii) For declaration that the defendants have no right to occupy part of temple premises of the plaintiff Samity including the residence quarter of the Priest .

(iv) For eviction of the defendant No. 1 from the temple premises.

(v) For permanent prohibiting injunction restraining the defendants from running any parallel Samity in the temple premises, holding meeting using articles of the Buddhist temple, documents, books, papers, stamp (seal), collection of subscription, donation and from issuing any receipt thereof and from interfering to the activities of the plaintiff Committee and its members and restraining defendants from entering into the office premises of the temple.

(vi) For mandatory injunction directing the defendants from removing all their personal household articles from the temple premises including office and hostel premises and to deliver all papers including land documents and papers of Thai Consulate General of India regarding the donation of Buddha Statute - three Nos. to Dibrugarh Buddha Samity to the plaintiff Committee.

(vii) For cost of the suit and for any other relief as the Court thinks deem and fit .

3. Alongwith the plaint, an application under Order 39 Rule 1 and 2 read with section 151 of the Civil Procedure Code (CPC for short) and section 37 of the Specific Relief Act was filed being Misc. Case No. 33 of 2009 in Title Suit No.

53/2009 contending inter alia that the plaintiff/petitioner has got landed property in its own name measuring 3 K 9 L of periodic patta No. 37 covered by Dag No. 187 at Grahambazar ward, District Dibrugarh together with a Buddhist temple, hostel, guest house, office premises, Priest residence and other structures standing thereon in ward No. 17 of Dibrugarh Municipality Dibrugarh. The Purbanchal Bhikkhu Sangha recommended the defendant/opposite party No. 1 to appoint him to be a priest to do religious function in the Buddhist temple and accordingly he w

as appointed as priest and entrusted the charge of doing religious functions in the Buddhist temple who was earlier a Publicity Secretary of Purbanchal Bhikkhu Sangha. Thereafter, the defendant No. 1/opposite party No.1 took the charge of Priest for a period of one year who was subsequently entrusted with the work of Priest/Monk from year to year. Consequently thereupon, he became the President of the Managing Committee of the temple. But due to the illegal activities and for doing some acts adverse to the interest of the Buddhist, he was terminated from the office of Presidentship followed by his resignation from the post of President and accordingly a General Meeting was held on 11.09.2005 and a new Managing Committee had been formed with a new President and Secretary Shri Subhasmay Baruah and Shri Sunil Kumar Baruah respectively. Thereafter the said Ex-President with the aid of the President Shri Pranab Kumar Baruah without giving notice to the Secretary Shri Dipak Baruah and nine(9) other members of the Executive Committee held a meeting on 23.03.2008 illegally and the Secretary Shri Dipak Baruah and Advisor Shri Amitav Baruah had been removed from the Managing Committee and took some resolution in the said meeting in an illegal manner. The said action was taken by the defendant No. 1 for dividing the Committee for his own vested interest and started foul games for which the matter was referred to the Purbanchal Bhikkhu Sangha, Margherita who enquired into the matter and issued show cause notice upon defendant No.1/opposite party No.1 but did not give satisfactory reply to the show cause notice and ultimately he was expelled from the post of membership by the Purbanchal Bhikkhu Sangha vide notice dated 15.07.2008 disallowing him from doing any religious function in the Buddhist temple as well as Buddhist society, but he conspired with the then President Shri Pranab Kumar Baruah, continued his activities holding the earlier post for which the Committee headed by the President Shri Pranab Kumar Baruah was dis-approved and his Committee has been expelled by the Purbanchal Bikhu Sangha for which a new Committee was formed in the General Meeting held on 12.10.2008 in the temple premises in presence of the ordinary, existing and most active members of Dibrugarh Buddha Samity. Accordingly, the new Committee was formed with the President Shri Sunil Baruah and the Secretary Shri Uzzal Baruah and some resolutions were taken in the General Meeting. The members who resigned earlier from the Committee were also present in the meeting and they have formally announced their resignation in the meeting and thereby the earlier Committee was dissolved in formal and constitutional manner. The new Committee has got approval from Purbanchal Bhikkhu Sangha and thereby got legal entity according to their constitution but the earlier President Shri Pranab Kumar Baruah with the aid of the defendant No. 1 including the other defendants have run a parallel Committee without vacating the office premises occupied by the defendant No. 1 thereby misappropriating the fund of the Dibrugarh Bhuddha Samity without proper authority and hence the misc. case, seeking an ad-interim prohibitory injunction restraining the defendants/opposite parties from doing any activities in the suit premises including mandatory injunction directing to deliver keys of the temple premises including the quarters, hostel, guest house, library and to deliver books, books of account and all properties of the temple and its land documents and all properties attached to the premises to the plaintiff/petitioner Committee till disposal of the suit.

4. The defendants contested the miscellaneous case by filing show cause contending, inter alia, that the statements made in paragraphs 1 to 16 are denied save and except which are admitted by the opposite parties. By way of filing the show cause reply, it was contended that the opposite party No. 1, who is one of the members of Purbanchal Bhikkhu Sangha and he is authorized to do all religious acts by the said Purbanchal Bhikkhu Sangha and the opposite party Nos. 2, 3, 4 and 5 have been decorated with the posts of President, Secretary, Treasurer and Executive Member of the Managing Committee who are elected by the public by adopting all legal procedures and formalities. The Dibrugarh Buddha Samity is presently smoothly run by the opposite party No. 1 in all spheres and therefore the contentions of the paragraph No. 2 of the petition were denied, whereas the contentions of paragraph No. 3 of the petition were partly admitted and partly denied. As to the real fact it has been stated that the opposite party No. 1 arrived a

t Dibrugarh Buddha temple in the year 1981 and the then Secretary of the Managing Committee Shri Binod Bihari Baruah appointed the opposite party No. 1 as high Priest and since then he is holding the post of President of the Managing Committee for the last 27 years including the post of Public Secretary of Purbanchal Bhikkhu Samity, Administration Secretary of Purbanchal Bhikkhu Sangha as well as the Executive Member of all Assam Buddhist Association and executive member of all India Bhikkhu Sangha. The averments made in Paragraph 4 also has been partly admitted and partly denied. Regarding Paragraph 4, it has been contended that so called President and Secretary Sri Sunil Kumar Baruah and Sri Uzzal Baruah in collusion with Sri Amitav Baruah (ex Adviser), Sri Dipak Baruah (Ex-Secretary), Sri Subhashmay Baruah (Ex-President), Shri Dipak Choudhury (Ex-Member), Sri Nripendra Choudhury (Ex- Vice President), Sri Asit Baruah( Ex-Treasurer), Sri Kabindra Baruah (Ex-Member), Sri Dipak Baruah (Ex-Editor) and Sri Sandip Baruah, Dibrugarh Buddha Samity had been trying to dispossess the opposite party No. 1 for fulfillment of their malafide intention but being failure to divest the rightful power of the opposite party No. 1 they have filed the instant suit.

Moreover, Shri Dipak Baruah and Shri Amitav Baruah were removed for anti-social and anti-religious activities to take revenge with the existing Managing Committee for their individual benefit defying the present status of Dibrugarh Buddhist Samity and accordingly prayed for dismissal of the Misc. Case arising out of TS No. 53/2009.

5. The learned trial court took up the Misc. Case on 19.10.2009 and after narrating the brief facts as indicated above taking into account the documents Nos. 21 and 22 ( notices ) filed by the petitioner that the Purbanchal Bhikkhu Sangha held the opposite party No. 1 as a man of ill character and accordingly he was expelled from the membership of the Purbanchal Bhikkhu Sangha and also considering the resolution dated 23.05.2007 adopted by the Managing Committee that the Priest i.e. the opposite party No. 1 informed the house that if the majority members do not desire him as the Priest then for the interest of the Vihar (Mandir) he will tender his resignation as well as the resolution dated 12.10.2008 wherein thirtyfive (35) members formed a new Managing Committee of the petitioner's Samity headed by Shri Sunil Kumar Baruah and Shri Uzzal Baruah who were elected as President and the Secretary respectively. On the other hand, from the new proceeding book submitted by the opposite parties, it appears that on 23.11.2008, 26 (twenty six) numbers of members constituted a new Committee of the petitioner Samity, wherein, amongst others, the opposite party No. 2 was elected as the President and the opposite party No. 3 was elected as the Secretary, however, the said meeting did not dissolve the Committee formed by the members on 12.08.2008. Therefore, the learned trial court has held as thus;

.. & At this stage, it cannot be finalized/decided as to whether the appointment of the Priest in the Dibrugarh Buddha Mandir is made as per the recommendation of the Purbanchal Bhikkhu Sangha or the All Assam Bhikkhu Sangha.... & & & In order to avoid further complexities, it is directed that within a period of two months from today the petitioner Committee shall convene an extra ordinary general meeting inviting all the registered members of the Dibrugarh Buddha Samity for formation of the Managing Committee of the Samity afresh and thereupon the members present shall form the new Committee in accordance with the provisions of the constitution..... & & & which would be for the welfare of the religious institutions.

The learned trial court while concluding the order passed in Misc. Case has further directed that till the formation of the new Committee, as directed in the said order, the opposite parties shall not disturb the entrance and organization of regular meeting by the Committee headed by Shri Sunil Baruah and Shri Uzzal Baruah as per the resolution dated 12.10.2008 and the opposite parties were also restrained from interfering the petitioner Committee from discharging the duties of the Committee as per the Constitution of the Samity. The learned trial Court further directed that till formation of the new Committee the opposite parties shall not undertake any activities in the name of the Dibrugarh Buddha Samity and any party acting to the contrary of the order shall be prosecuted in ac

cordance with law.

6. Being aggrieved with the order dated 19.10.2009 rendered by the learned trial court in Misc. (J) Case No. 33/2009 arising out of Title Suit No. 53/2009, the opposite parties took up the matter in appeal being Misc. (A) No. 23/2009 before the learned Civil Judge, Dibrugarh. The learned appellate court after discussing the arguments advanced by the parties and upon perusal of the materials available on record came to the conclusion that there are two parallel Committees trying to manage the Dibrugarh Buddha Mandir and both the Committees claiming themselves as the lawfully constituted bodies and the memo of appeal reveals that the appellants with full cooperation with the Dibrugarh Buddha Samity, public of Dibrugarh and other dignitaries of the society have been celebrating the Diamond Jubilee on and from 24.10.2009 along with other social activities especially for the welfare of the religious society. Considering the order dated 19.10.2009 and in view of the direction to commence an extra ordinary general meeting for formation of the Managing Committee of the Samity afresh in accordance with the provision of the Constitution, wherefor both the parties have unitedly formed a new Committee in accordance with the provisions of the constitution and thus the purpose of the appeal has become infructuous holding that there is no illegality to be interfered with the order dated 19.10.2009 passed in Misc. (J) Case No. 33/2009 and thereby dismissed the appeal and vacated the order dated 23.10.2009. Hence this revision petition.

7. Admittedly, there are two parallel Committees constituted on 12.08.2008 and 23.11.2008, one by the plaintiff petitioner and the other by the opposite parties/petitioners herein respectively. Both claimed to have duly constituted bodies in accordance with the provisions of the Constitution and they are performing their religious duties. In the Misc. Case seeking a prohibitory order restraining the appellants along with the mandatory injunction from carrying any activities in the suit premises holding the petitioner is the lawful constituted body formed on 12.10.2008 the learned trial court directed the opposite parties not to disturb the entrance and organization of regular meeting of the Committee headed by Shri Sunil Baruah and Shri Uzzal Baruah thereby restraining the appellants from interfering with the activities of Dibrugarh Buddha Samity till formation of a new Committee wherein the learned appellate court has held that appeal has become infructuous which do not require to be interfered with in the facts and circumstances of the case.

8. It has not been contended in the present petition that there is any error apparent on the face of the record, findings of the Courts below are perverse, and/or the Courts below has exercised jurisdiction not vested in it by law and/or has acted in the exercise of its jurisdiction illegally or with material irregularity while passing the impugned order under challenge.

9. I do not find any perversity, jurisdictional error or errors of law in passing the impugned orders calling for interference of this Court exercising power under Article 227 of the Constitution of India.

10. In view of the same, this Court finds that no interference is called for with the order dated 30.09.2010 passed in Misc.(A) No.23/2009, confirming the order dated 19.10.2009 in Misc.(J) Case No.33/2009 arising out of T.S. No.53/2009 granting temporary injunction in favour of the opposite parties herein.

11. In the result, the revision petition being devoid of merit, the same is dismissed. No costs.