

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-4905-2018

Date of decision : 31.10.2018

Khem Chand

... Petitioner

Versus

Hanuman Ji Mandir Trust Badkhal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.J.S. Hooda, Advocate
for the petitioner.

Mr. Amit Prashar, Advocate
for respondent no.1.

Mr.Pawan Jhanda, AAG, Haryana.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner has challenged the order of the learned trial Court (Civil Judge (Jr.Div.), Faridabad) dated 10.07.2018 (copy Annexure P-1), by which despite the order earlier passed by that Court on 07.06.2018, directing that status quo be maintained qua the property of the temple in all respects, thereafter, respondent no.1 herein, i.e. *Shri Hanuman Ji Mandir Trust Badkhal*, Faridabad, has been allowed to paint the statute of *Shree Hanuman Ji*.

At the time when notice was issued in this petition on August 02, 2018, the Deputy Commissioner, Faridabad, had been impleaded as a party in the petition and had been directed to determine the status of construction of the *Murti* of *Shree Haunman Ji*, as was being raised in the *Mandir*.

as learned State counsel at that stage had stated that it had not been vetted by the office of the Advocate General, Haryana, however photographs taken on behalf of the Deputy Commissioner had been produced in Court by him, as recorded in the order dated 13.08.2018, showing that the civil work of construction of the idol was complete, with seemingly only paint work left to be done.

Learned counsel for the petitioner at that stage had contended that a contract of Rs.25 lacs had been entered into by respondent no.1, i.e. the plaintiff, simply as a method of siphoning funds of the trust, whereas the paint work could be done for a lesser amount with donations made by devotees of the temple.

Having also observed in that order that, equally obviously, the funds of the trust would also comprise of donations made by devotees (with learned counsel for respondent no.1 submitting however that the trustees had also contributed money themselves to the fund), as regards the paint work, it being monsoon season then, status quo was ordered to continue (obviously no paint work being possible on an idol being constructed on an area open to the sky).

Having considered the matter now, learned counsel for the respondent-plaintiff submits that the said respondent would not in any manner seek any reimbursement of the paint work on the *Murti*, even if the suit of the plaintiff is dismissed and therefore, the painting of the *Murti* may be now allowed to be continued.

Learned counsel for the petitioner-defendant has vehemently opposed the aforesaid on the ground that admittedly the trust, of which the petitioner is the Secretary (Triveni Hanuman Mandir Trust), came into

existence in the year 2008 with the *Murtis'* construction having been started in 2011 and therefore, now by doing the paint work, the respondent trust is seeking to virtually take over the management of the *Mandir*, which it cannot be allowed to do.

Learned counsel for the respondent on the other hand submits that the petitioner has not challenged the formation of the respondent trust at any stage.

Be that as it may, without going into that controversy in any manner whatsoever, with the suit still pending before the trial Court, which would go naturally into the entire issue on the basis of evidence led before it (if the application filed under Order 7 Rule 11 CPC is not rejected), in my opinion this petition can be disposed of in terms of the statement made by learned counsel for the respondent, to the effect that no money will be claimed by the respondent, as is spent for the paint work on the idol of *Shree Hanuman Ji*.

Thus, there would be no reason for this court to interfere with the impugned order.

Consequently, while dismissing this petition, it is however made absolutely clear that this Court has not made any comment whatsoever on the rights of the either party to run the management of the *Mandir* (or any ancillary matter thereto), which would be gone into by the trial Court wholly on merits, including the application filed under Order 7 Rule 11 CPC.

This order, upholding that of the trial Court, allowing the painting of the *Murti*, has been passed only to ensure that the *Murti* is not left in the scaffolding for an indefinite period and it actually reaches finality,

with no right whatsoever given to the respondent, at this stage at least, by this Court, as regards management of either the *Mandir* or the *Murti*, or any funds or /donations made, thereto.

Hence, the respondent shall be entitled to have the *Murti* painted entirely at its own expense, and entirely at its own risk as regards the funds spent, because such funds would not be reimbursed to it, regardless of the outcome of the suit, or even the application filed under Order 7 Rule 11 CPC.

It is further clarified that this order only upholds the impugned order by which only painting of the *Murti* has been allowed by the trial Court, with status quo as earlier ordered by that Court on 07.06.2018, to be continued to be maintained, that order not having been challenged before this Court.

(AMOL RATTAN SINGH)
JUDGE

October 31, 2018.

D.K./dinesh

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No