

(2000) 11 SC CK 0055

Supreme Court of India

Case No: Civil Appeal No: 3924 of 1992

Sambhavnath Digambar Jain

APPELLANT

Vs

Mohanlal and Others

RESPONDENT

Date of Decision: Nov. 9, 2000

Acts Referred:

- Code Of Civil Procedure, 1908 Or 8R 6A, Or 6R 17, Sec 115

Citation: (2000) 6 JT 174 : (2000) 91 RD 431 : (2000) 4 SCALE 405 : (2000) 4 SCC 631

Hon'ble Judges: V. N. Khare, J; S. N. Phukan, J

Bench: Division Bench

Final Decision: Allowed

Judgement

V.N. Khare J.-This appeal is directed against the judgment of the High Court rejecting the revision petition filed by the appellant herein as not maintainable.

2. The appellant herein, is a registered public trust managing a temple and its property. The appellant applied for registration of the Trust before the Registrar who by order dated 13-10-1981 accorded registration to the Public Trust of the appellant.

3. The respondents herein filed a suit against the appellant for setting aside the said order of the Registrar. On 13-9-1982, the appellant filed written statement wherein an averment was made that the portion of property where the girl's school was running was the property of the Trust. It may be mentioned that the Registrar did not include the said portion of the school as trust property. On 15-9-1982, the appellant filed an application under Order 6 Rule 17 and Order 8 Rule 6-A of the Code of Civil Procedure read with Section 151 of the Code of Civil Procedure and sought to incorporate in its counter-claim the said school as a trust property by way of an amendment to its written statement. The said application was rejected by the trial court and being aggrieved by the said order, the appellant filed a revision which was dismissed as not maintainable. That is how the parties are before us.

4. Learned counsel for the appellant has urged that the order passed by the trial court was revisable and view taken by the High Court is erroneous. We are of the view that the High Court for ends of justice ought to have considered the application on merit keeping in view Rule 6-A of Order 8 of the Code of Civil Procedure and in accordance with the law. We, therefore, hold that the above order rejecting the application of the appellant by the trial court was revisable.

5. Consequently, we set aside the judgment under challenge and send the case back to the High Court for deciding the revision application on merits. It will be open to the parties to raise all the contentions before the High Court which are available to them under law.

6. The appeal is allowed. There shall be no order as to costs.