

HEARING DATED: 07.08.2019

:: RAM MANDIR CASE ::

Mr. Sushil Kumar Jain, Sr. Advocate appearing for Nirmohi Akhara handed over a note to the court and started arguing further on Limitation.

Mr. Jain repeated the contents which were argued yesterday on Article 47, Article 120 and Article 142 of Old Limitation Act and stated that Nirmohi Akhara (Plaintiff) was deprived possession by the order of court passed u/s 145 Cr.P.C.

He stated as follows:

- No final order was actually passed.
- No restriction is mentioned in limitation act on filing a suit.
- Right to file a suit is governed u/s 9 CPC.
- Order dated 29.12.1949 falls under distinct suit mentioned under Article 47 of Old Limitation Act.
- Interim order may be cause of action to the plaintiff but it doesn't mean that Limitation will apply from the date of passing that order.

J. Bhushan: Repeated yesterday's query of Justice Bobde mentioning that in that situation Article 47 can't be involved.

J. Bobde: Suit filed u/s 9 of CPC, there is nothing related to Limitation Act. Your control on property was taken away by appointment of receiver but it's neither appearing against you nor in your favour.

Mr. Jain : Argued by putting a hypothetical situation by stating that assume if there is a Mahant who comes before the court against the order of appointment of receiver and loses on the ground of limitation then in that situation who will be the owner?

CJI: We are clear on the issue of limitation, you may proceed further.

Mr. Jain cited two judgments mentioned in his notes 1954 SCR 1005 relevant page 1018 on property right at Mathadhipati as per the judgment:

- Mathadhipati is not a mere manager, he is more than that.
- The right of Mathadhipati is a genuine legal right.
- The court finds no reason if the right of proprietor are extended under article 91.

Therefore, Mr. Jain attempted to establish that right of Mathadhipati are more than the manager and therefore, he has a right to manage like owner.

Meanwhile a long discussion/argument took place between Mr. Parasarn Sr. Advocate, Mr.Dhawan on the issue of referring the judgment from book or from the SCC situation. CJI finally stated that refer SCC / AIR (book) not SCC situation.

Mr. Jain : My right of management was taken away and under Article 142 of Old Limitation Act limitation would start from dispossession.

J. Chandrachud: Article 142 speaks only Possessory rights, possession and management are all together different.

J. Bobde : We got your case as you can't manage the property until you don't possess it, put this in that way.

CJI : How your management is explained in your Suit.

Mr. Jain :It's not mentioned broadly as earlier we used to file small suits of 3-4 pages.

Mr. Jain : Article 120 of Old Limitation Act contains 6 years of limitation from the date of final order, so final order in my case was passed 26.04.1955, accordingly my case is within limitation.

J Bhushan : You are relying upon different dates for different sections of limitation, rely upon only one date.

J Bobde : Depriving management is depriving possession as per you but don't put merger theory here.

Mr. Jain : Merger is a judicial proceeding.

J. Bobde : Its strange as right to sue starts from order in appeal as per you?

J. Bhushan : Right to sue and right to execute are different, don't mix here.

Mr. Jain : Even from order passed in 1953 I am within limitation.

CJI : We have heard you on limitation, what about other issues. Proceed with other issues

Mr. Jain : I am supporting Suit 5 and I say that Suit 5 is within limitation

Referred as follows:

Page 75 Volume 1 of impugned Judgment on limitation.

Page 87 Volume 1 of impugned Judgment on limitation.

Page 1514 para 2568 of Volume II reasoning of J. Aggarwal on limitation.

Mr. Jain :

- Nobody can prove ownership in this case.
- Entry in Revenue records doesn't confer any right, this finding is completely wrong in impugned order.
- I will show the entry in our name as per revenue record.

Page 3495 of J. Sharma on limitation wherein this issue was decided as per issue no. 3 in O.S. No. 4 of 1989.

ISSUE NO. 2, 3 & 8

Issue No. 2 – does the property in suit belong to plaintiff no. 1

Read from impugned order of J. Sudhir Aggarwal : Page 2846, para 4481

Mr. Jain : My suit is not based on title, however, it is based on possession.

J. Bobde : Any revenue is payable on this land.

Mr. Jain : No information as such. Nobody else answered.

CJI : You have to establish your possession by putting the evidence before us. What evidence you adduce in your favour in support of your claim.

J Bhushan : Khasra is for record of possession.

Khatauni is for record of ownership

Mr. Jain : We are in a hard situation so far as original record is concerned we are not possessing anything.

CJI : Show us from the evidence / record as what was your status.

Mr. Jain : not replied on this.

J. Bhushan : What are your evidences in support of your claim.

Mr. Jain : I will give it to you.

J. Chandrachud : You are claiming Shabaitship over the place in dispute.

How does your right established. Right of Janamsthan and right of Shabaitship are different.

You have to establish your right from the follows:

- Shabaitship
- Historical Account
- Revenue Record
- Account maintained, if any
- Khasra/ Khatauni

IT'S LUNCH NOW

Immediately picture got changed after the lunch Since Mr. Jain was unable to produce evidence after making several queries from judges, therefore, CJI said that we would like to hear the main case now which is O.S. No. 5 of 1989, and allowed Mr. Jain to make his submission after main Suit.

Mr. Jain was conveyed to come prepared.

ARGUMENT IN O.S. NO. 5 OF 1989 BY MR. PARASARAN, SR. ADVOCATE

-Mr. Parasaran appearing from plaintiff (Bhagwan Sri Ram Virajman) started to make his submission he referred 'Written Submissions / Notes' prepared by him and thereafter read over several paragraphs from the pleadings in O.S. No. 5 of 1989 from pleading volume 'A'

- * Mr. Parasaran said my suit is not barred by limitation.
- * He argued that it's a continuous cause of action against his right.
- * He argued that it's continuous wrong.
- * There was no occasion to pray for delivery of possession.
- * Referred / read out prayer of Suit 5 of 1989 on page 258 in pleading volume 'A'

J. Bobde : Is there any reference in Valmiki Ramayan?

- * Mr. Parasaran : Yes, but little, will give it to you tomorrow.
- * Mr. Parasaran : Explained about faith and explained as once faith is there we need not to prove anything further, there is always a relaxation once faith is established. Faith of millions of worshippers that the particular place was where Ram was born and temple was there, is itself evidence of the same.
- * Mr. Parasaran further explained that as per the defendant the place of birth is 200 meter away and taken the court to historical texts to buttress contention of existence of Ram temple at Ayodya
- * He argued that disturbed possession is not a settled possession.
- * He explained that Travelers accounts are there to clarify the position regarding disputed place.
- * He argued about 'Act of State', it is the duty of the State to decide the right of the people and further explained about Lord Brahma, Vishnu and Mahesh. God is everywhere you can't worship in any form.

J. Bobde: is there any other similar case anywhere else in the world, like dispute related to birthplace of Prophet Mohd., or Jesus Christ?

Mr. Parasaran: I don't know, I will check up.

J. Chandrachud: On the date of commissioner report the idols are found on Ram Chabutara.

:: Hearing resumed will begin tomorrow::

**Notes Prepared by:
Amit Sharma, Advocate**