

HEARING DATED: 11.09.2019

::RAM MANDIR CASE::

MENTIONING BY MR. VIKAS SINGH SR. ADVOCATE

Mr. Vikas Singh Sr. Advocate mentioned regarding listing of his petition on **LIVE STREAMING** on which CJI Ranjan Gogoi directed to list the same on 16th September, he said that on 16.09.2019 apart from Ayodhya Case, we have some other matters to hear and alongwith these matter we will hear this petition also.

Matter was heard only for 1.15 minutes. – Hon'ble Court started to hear the matter by 2:15pm today and heard till 3.30 i.e. for 1.15 minutes.

ARGUMENT OF MR.RAJEEV DHAWAN (SR. ADVOCATE)

Mr. Rajeev Dhawan, Sr. Advocate appearing for Plaintiff in Suit No. 4 and defendant in other Suits commenced his argument on 'Continuous Wrong'. Mr. Dhawan handed over a compilation to the judges and other parties and argued the concept of 'Continuous Wrong' and its application on various aspects such as limitation etc.

- Mr. Dhawan argued in reply to the submissions of Nirmohi Akhara wherein while interpreting section 9 and 23 of Limitation Act 1908, Mr. Dhawan remind to the court that Mr. Jain argued before them that since their management was taken over by the government officer, therefore, it is 'continuous wrong' for them till such rights are not restored.
- In reply of submissions of Mr. Jain (for Nirmohi Akhara) Mr. Dhawan made his submission on the basis concept as what is 'continuous wrong'?

- Mr. Dhawan argued that any right which Nirmohi Akhara got w.e.f. 22.12.1949 till 05.01.1950 were illegal rights, and therefore, such illegal rights doesn't come in 'continuous wrong'?
- Mr. Dhawan argued that they are seeking relief of 'Continuous Wrong' against right action of Magistrate.
- Mr. Dhawan argued as what is wrong in the Magistrate Proceeding. According to them (Nirmohi Akhara) the only duty of the Magistrate is to give it (possession) to me, otherwise its 'continuous wrong'.
- Mr. Dhawan while referring judgments argued that would you sue the Magistrate, he said that judgment which I am referring answers in negative it says, 'You can't sue'.
- Mr. Dhawan argued that acceptance of such plea is an invitation to the disaster.
- Mr. Dhawan argued that this 'continuous wrong' was persisted to extend the period of limitation.
- Mr. Dhawan argued that we have to understand that what is 'continuous right' and what is 'continuous wrong' he further argued that Magistrate owes a duty to law, not to you (Nirmohi Akhara) ?
- Mr. Dhawan referred a judgment in State of Bihar Vs Deokaran Nenshi 1972 (2) SCC 890 and Commissioner of Wealth Tax Vs Suresh Seth 1981 (2) SCC 790. Maya Rani Punj Vs Commissioner of Income Tax 1986 (1) SCC 445, in reference of 'continuous wrong', on the basis of above judgments, he argued that 'Continuous Wrong' depended on the determination of wrong and its recurrence.
- Mr. Dhawan argued on 'Tort', he argued that if you breach the contract, then you have to pay the damages, law is very clear on that, there may be recurring cause of action, that's my another argument.

J. Bobde: If I ask someone to demolish a wall, and he doesn't demolish it, will it be a continuous wrong. Will it be continuous Wrong or Contempt.

- Mr. Dhawan quoted the Balakrihna Vs Shree D.M. Sansthan AIR 1959 SC 798 and argued that in the same judgment it was held that residuary Article 120 of the Limitation Act applied and there was no continuing wrong under section 23 of Limitation Act.
- Mr. Dhawan argued that proceeding u/s 145 Cr.P.C. doesn't invoke 'Continuous Wrong' in any manner because the action was complete.
- Mr. Dhawan further referred Chandi Prasad Vs Jagdish Prasad 2004 SCC 724, Union of India Vs West Coast Paper Mills Ltd 2004 (2) SCC 747, Shanti Vs T.D. Vishwanathan 2018 SC 2198 in support of his submissions.
- Mr. Dhawan argued that presence of alternative remedy of the definition event will defeat the plea of a continuous wrong.
- Mr. Dhawan made his submission on 'Omission' and 'Commission' of Continuous Wrong.
- Following citations were referred by Mr. Dhawan
(1933) 60 IA 313, (1880) 7 IA 240, (1972) 2 SCC 890
(1981) 2 SCC 790, 1986 (1) SCC 445,
2008 (8) SCC 648, AIR 1959 SC 798,
1948 (61) Law Weekly 365, 2004 (8) SCC 724,
2004 (2) SCC 747, (2018) SCC Online SC 2196,
AIR 1916 Cal 751, AIR (2005) Cal 121, 2016 (5) Mh.L.J. 143

:: Hearing resumed will begin tomorrow::

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