

Court No. - 19

Case :- MATTERS UNDER ARTICLE 227 No. - 3341 of 2017

Petitioner :- Anjuman Intazamia Masazid Varanasi

Respondent :- Ist A.D.J. Varanasi And Others

Counsel for Petitioner :- A.P.Sahai,A.K.

Rai,D.K.Singh,G.K.Singh,M.A. Qadeer,S.I.Siddiqui,Syed

Ahmed Faizan,Tahira Kazmi,V.K. Singh,Vishnu Kumar Singh

Counsel for Respondent :- C.S.C.,A.P.Srivastava,Ajay Kumar

Singh,Ashish Kr.Singh,Bakhteyar Yusuf,Hare Ram,Prabhash

Pandey,R.S.Maurya,Rakesh Kumar

Singh,V.K.S.Chaudhary,Vineet Pandey,Vineet Sankalp

Hon'ble Prakash Padia,J.

Heard Sri S.F.A. Naqvi, learned Senior Counsel assisted by Sri Syed Ahmad Faizan and Sri Punit Kumar Gupta, assisted by Devendra Kumar Mishra, learned counsel for petitioner and Sri Ajay Kumar Singh, Sri Vijay Shankar Rastogi, Sri Sunil Rastogi, Sri Tejas Singh, Sri Chandra Shekhar Seth and Sri Vineet Sankalp, learned counsel for contesting respondents, Sri Shashi Prakash Singh, Senior Counsel/Assistant Solicitor General of India assisted by Sri Manoj Kumar Singh learned counsel for respondent No.7 and Sri M.C. Chaturvedi, learned Additional Advocate General/Senior Advocate assisted by Vineet Pandey, learned Chief Standing Counsel, Hare Ram, Rajesh Kumar Mishra and Vijay Sharnkar Prasad, learned Standing Counsel for the respondent No.8.

Sri Vijay Shankar Rastogi argued that if a historical wrong has been done by the previous sovereign regime, the aforesaid matter can be adjudicated by the Municipal Court of the present sovereign regime. It is argued that on 14.01.1765 a new sovereign was established in Benaras and the Zamindari of Benaras was given to Balwant Singh. It is argued that Warren Hasting constructed Naubatkhana on the temple of Lord Vishweshwar and recognized the rights of Hindus over the Gyanwapi Compound.

Sri Vijay Shankar Rastogi argued that a Suit being Original Suit No.62 of 1936 (Din Mohammad and two others Vs. Secretary of State for India in Council through District Magistrate and Collector, Benaras) had been filed by three persons namely Deen Mohammad, Mohammad Hussain and Mohammad Zakariya before the Court of Subordinate Judge, Banares in their personal capacity not their representative capacity. It is argued that in the written statement filed on behalf of defendant/Secretary of State for India in Council, it was denied that the land in question was Waqf land and it was never dedicated to God. It is argued that aforesaid suit was decided on 25.08.1937 by the Additional Civil Judge and the limited reliefs granted in the aforesaid suit would not be benefited to all the persons of Muslim community. It is argued that in the aforesaid Suit, Hindus as the deity Swayambhu Lord Vishweshwar (Vishwanath), the Anjuman Intezamia Masajid (society) as well the U.P. Muslim Board of Waaqf, Lucknow were not parties, hence the judgment passed in the said case is not binding upon the Hindus in General and the Hindu deity's.

Sri Vijay Shankar Rastogi argued that aggrieved against the aforesaid, First Appeal No.466 of 1937 was filed by Din Mohammad and others before this Court which was decided in the year 1942 reported in A.I.R. (29) 1942 Allahabad 353. It is argued that the aforesaid first appeal was dismissed by this Court vide its judgement dated 25.08.1937

Sri Vijay Shankar Rastogi placed before the Court The Uttar Pradesh Sri Kashi Vishwanath Temple Act, 1983 passed by the U.P. Legislative Assembly which has been come into force on January 28, 1983. He relied upon the definition of the Temple which has been mentioned in Sub Section 9 of Section 4 of the Act, 1983. Sri Vijay Shankar Rastogi argued that rights of the

ownership of this Temple and its endowment are vested in the Diety of Sri Kashi Vishwanath, i.e., Lord Visheshwar which is itself mentioned in Section 5 of the Act, 1983. It is further argued by Sri Vijay Shankar Rastogi that the validity of Act, 1983 had been challenged up to the Hon'ble Supreme Court and the Hon'ble Supreme Court in the case Sri Adi Visheshwara of Kashi Vishwanath Temple Varanasi & others Vs. State of U.P. and others reported in 1997 4 SCC 606 affirmed the validity of the Act of 1983.

Due to paucity of time, the arguments could not be concluded.

List again for further hearing on 15.07.2022

Order Date :- 13.7.2022
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