

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 5233 OF 2009**

**[Arising out of SLP(C) No. 227/2006]**

**SHESH KARAN (D) THROUGH L.RS.**

**... APPELLANT(S)**

**:VERSUS:**

**KAMLESH RAMSNEHI (D) THROUGH L.RS.**

**... RESPONDENT(S)**

**ORDER**

**Leave granted.**

By reason of the order dated 16.1.2006, this Court issued notice confined to the question as to whether an undertaking should be given by the legal representatives of the original plaintiff to the effect that delivery of possession of the suit property in their favour would enure to the benefit of the trust or the Mahant, who might be elected in future. Learned counsel appearing on behalf of the respondents very fairly and categorically states that his clients are ready and willing to give such an undertaking before the Court concerned stating that the suit did not involve any question of title. In that view of the matter, this appeal is disposed of in the above terms.

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Before parting, however, we may notice that the State of Rajasthan got itself impleaded in this matter and filed counter affidavit, paragraph 4 of which reads as under:

“On 27.04.1981, a Notification was issued by the Devasthan Department of the State Government and Ram Dwara was handed over to the Devsthan Department. The notification was published on 25.06.1981. Copy of the notification dated 25.06.81 is annexed hereto and marked as Annexure R-1. It is respectfully submitted that the deceased Respondent had filed Suit as the 'Mahant' of Ram Dwara and the issue was also framed by the learned trial Judge, as to whether the deceased Respondent was the 'Mahant' of the Ram Dwara and is entitled to file the present Suit? It was stated in the suit that only unmarried person can be appointed as 'Mahant' and since the earlier 'Mahant' had married, therefore, he cannot continue as 'Mahant' of the Ram Dwara. The suit was not contested. The learned trial judge decided the issue in favour of the deceased Respondent and held that he is entitled to file the suit and being 'Mahant' of Ram Dwara, is entitled to take possession of the disputed property.”

Learned counsel appearing on behalf of the respondents, however, submits that the contention raised by the State is wrong. In any case, we are not called upon to decide such a question in this appeal. It is needless to state that if the aforementioned contention

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of the State is wrong, the parties are at liberty to proceed to avail of such remedies as are available to them in law.

The appeal is disposed of with the aforementioned observations and directions.

.....J  
(S.B. SINHA)

.....J  
(Dr. MUKUNDAKAM SHARMA)

NEW DELHI,  
AUGUST 3, 2009.

