A PAYAPPAR SREE DHARMASASTHA TEMPLE A. COM.

v.

A.K. JOSSEPH & ORS.

(Civil Appeal No. 4138 of 2009)

JULY 7, 2009

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[S.B. SINHA AND DR. MUKUNDAKAM SHARMA, JJ.]

Travancore Cochin Hindu Religious Institution Act, 1950: s.27 – Administration of temples – Respondent 1 obtained a C *decree of declaration of his rights in temple properties in 1958 by filing a suit in which Board was not made party – Suit filed by Board in 1998 claiming to be owner of the temple properties – Dismissed in view of earlier decree obtained by respondent 1 – Held : The decree of 1958 was not binding* D *and effective against the Board since it was necessary party and was not arrayed as party – High Court had not appreciated the evidence on record – Matter remitted to High Court for fresh consideration – High Court to dispose of the proceedings expeditiously.*

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The Travancore Devaswom Board was constituted to look after the management of property of the appellant-temple. The appellant was a body constituted by the Board. There were large track of land belonging to the temple. A part of land was allegedly encroached by the F **predecessor of respondent no.1. In 1958, the predecessor of respondent 1 filed a suit for declaration of his rights in the suit land. In the suit, the Board was not impleaded as a party.**

G **The trial Court decreed the suit which remained unchallenged. In 1998, the Board filed a suit against respondent 1 for eviction from the suit land. However, the trial court dismissed the suit in view of earlier decree obtained by respondent 1. The Board filed appeal against**

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the order of trial court. A complaint was filed on behalf A of the temple alleging trespass by respondent 1, invoking supervisory powers of High Court under Travancore Cochin Hindu Religious Institution Act, 1950. Since two proceedings were pending before High Court, one for exercise of supervisory powers and appeal against order B of trial court, both were heard together.

The records showed that in 1929, the State Government transferred the suit land in favour of predecessor of respondent 1. However, in 1931, the State Government rectified the position and set aside the C previous order of 1929 of transfer of suit land. The same was challenged by predecessor of respondent 1 in 1998 making only State Government a party without making the temple authorities party to the suit. The Munsif Court decreed the suit on the ground that the Dewan had no D jurisdiction to pass the order.

High Court which exercised supervisory powers under 1950 Act directed that report be given by Tehsildar. Based on the report submitted, High Court passed an E order directing State Government to evict the illegal occupants. The property was handed over to Board after evicting respondent 1.

The appellant filed the present appeal before this F Court contending that courts below failed to consider the documents and decreed the suit filed by respondent 1 only on the ground that the earlier suit filed by predecessor of respondent 1 was decreed in his favour, but totally ignored the fact that in the said suit even the G appellant or the Board were not made party and, therefore, the said decree was neither binding nor effective against the Board and the temple authorities.

Respondent 1 contested the appeal contending that

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A it was not maintainable on the ground that an earlier SLP filed by Board was dismissed on account of delay.

Partly allowing the appeal and remitting the matter of High Court, the Court

B HELD : 1.1. After coming into force of Travancore Cochin Hindu Religious Institution Act, 1950, the administration of temples and all their properties and funds, except the Sree Padmanabhaswami Temple got vested in the Travancore Board. Section 27 of the Act C states that the immovable properties entered or classed in the revenue records as Devaswom property, which is in the possession or enjoyment of the Devaswom effective from 12th April, 1922 shall be dealt with as Devaswom Properties. In the suit filed by the Board, a D number of documents were placed on record relating to the land in question but High Court came to the conclusion that the Board could not produce any document to show that the schedule property belonged to the Board. [Paras 13 and 14] [773-E-G; 774-B-C]

E 1.2. The trial court as also the High Court dismissed the suit filed by the Board, mainly, on the ground that the Respondent No. 1 obtained a decree in his favour by filing a suit in 1980. But the said suit was filed in the year 1958 by the Respondent No. 1 only against the State F Government. Board claimed to be the owner of the suit property which was the subject matter of the suit, and therefore, the Board was a necessary party. Since the Board was not arrayed as a party to the suit and decree was obtained only against the State Government, the G said decree at the most be binding only against the State and not against the Board. The High Court confirmed the judgment of the trial court only on the ground that there was already a decree passed in favour of Respondent No. 1 in a suit filed in 1958. But while doing so, the High

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Court totally ignored the earlier judgment passed by the same High Court and also the report of the Tahsildar with regard to the encroachment of the temple land by the Respondent No. 1. [Para 15] [774-D-H]

1.3. The interpretation sought to be given by the High Court so far as Section 27 of the 1950 Act is concerned, was incorrect. The High Court upheld the order of the trial court dismissing the suit filed by the Board, mainly, on two grounds, namely, the decree passed in 1958 suit which according to the High Court was final and binding and on interpretation of Section 27 of the Travancore Cochin Hindu Religious Institution Act, 1950, which was an incorrect interpretation, particularly, in view of the fact that the findings arrived at by the High Court that the Board could not produce evidence that it was in possession of the property on the date in question. [Para 16] [775-B-F]

2. It is indeed true that the Board had filed SLP which was dismissed on the ground of limitation. The appellant is a legal entity in view of the fact that it was constituted by the Board as per the byelaws issued by the Board. While filing the present appeal, the appellant stated that its interest in filing this appeal was only to protect the Board properties from the encroachers and to see that the lands belonging to temples and religious worships were not tampered with and also to give effective implementation to the provisions of the Travancore Cochin Hindu Religious Institution Act, 1950, interest and purpose of which is to protect Devaswom properties. An order was passed by this Court on 27.02.2006 when permission to file the SLP was granted, and therefore, the said question of locus standi cannot be re-agitated before this Court. [Paras 17 and 18] [775-G-H; 776-A-B]

Gurpreet Singh Bhullar v. Union of India **(2006) 3 SCC**

A **758;** *Jasbir Singh v. Vipin Kumar Jaggi* **(2001) 8 SCC 289;** *Raju Ramsingh Vasave v. Mahesh Deorao Bhivapurkr* **(2008) 9 SCC 54, relied on.**

3. The High Court passed the impugned order only B **on the basis of the fact that earlier decree would be binding on the appellant as also the Board and also on interpretation given to Section 27 of the Travancore Cochin Hindu Religious Institution Act, 1950. Both the views taken by the High Court were incorrect and** C **required to be re-considered by the High Court. After considering all the relevant documents including the revenue record, it was found that the High Court could not appreciate the evidence on record. Those records should not be ignored by the High Court as it was exercising the jurisdiction of the first appellate Court and** D **therefore the High Court committed a manifest error of law apparent on the face of the record. Matter is remitted to the High Court. Since the matter is old, High Court is requested to dispose of the proceedings as expeditiously as possible. [Paras 20, 21 and 22] [777-F-H; 778-A-C]**

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Case Law Reference:

(2006) 3 SCC 758	**relied on**	**Para 17**
(2001) 8 SCC 289	**relied on**	**Para 18**
(2008) 9 SCC 54	**relied on**	**Para 19**

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4138 of 2009.

G From the Judgment & Order dated 18.5.2004 of the High Court of Kerala at Ernakulam in AS. No. 298 of 2002.

Mathai M. Paideday, Shishir Pinaki and Sanjay Jain for the Appellants.

H S. Udaya Kumar Sagar, Bina Madhavan, Shwetank

Silakwal (for Lawyer's Knit & Co.), R. Sathish, M.P. Vinod, Dillep Pillai and Ajay K. Jain for the Respondents. A

The Judgment of the Court was delivered by

DR. MUKUNDAKAM SHARMA, J. 1. Leave granted. B

2. The present appeal is filed by the appellant herein challenging the legality of the Judgment dated 18.05.2004 passed by the Division Bench of the Kerala High Court dismissing not only the CMP No. 1118 of 2001 in T.D.B. No. 38 of 1996 but also the appeal registered as A.S. No. 298 of C 2002 arising out of O.S. No. 37 of 1998.

3. In T.D.B. No. 38 of 1996, the Travancore Devaswom Board (hereinafter "the Board") alleged that the property, which was the plaint schedule property in O.S. No. 37 of 1998, belong D to Travancore Devaswom Board and that said land had been illegally encroached upon and was in occupation of the trespassers. The aforesaid suit was filed for removing the trespassers.

4. Earlier, the Travancore Devaswom Board had filed a suit E for evicting the trespassers (the respondents), which was registered as O.S. No. 37 of 1998. The said suit was contested by the respondents. However, the aforesaid suit was finally dismissed.

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5. Being aggrieved by the aforesaid order an appeal was filed by the Board before the Kerala High Court contending, inter alia, that the plaint scheduled property belongs to it and that the respondent no. 1 was in illegal occupation of the same and prayed for an eviction order against respondent no. 1. As G CMP No. 1118 of 2001 in T.D.B. No. 38 of 1996 was pending for consideration before the Munsiff Court, the High Court on coming to know that another proceeding, namely, A.S. No. 298 of 2002 is pending for consideration for the same property in

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A the appellate court, High Court withdrew the said proceedings from the appellate court and proceeded to decide both the matter together. The High Court held that the trial court was justified in dismissing the suit of the Board, particularly, in view of Exhibit B5. After recording that the property did not belong B to the Board and that it actually belong to Respondent No. 1, it was held that the Respondent No. 1 was wrongly dispossessed on the basis of the subsequent survey and therefore a direction was issued to hand over the possession of the property to the Respondent No. 1.

C 6. Being aggrieved by the said Judgment and Order a Special Leave Petition No. 15250 of 2005 (CC No. 6642 of 2005) was filed before this Court by the Board, which was, however, dismissed on the ground of inordinate delay. The present appeal is filed by the Temple Advisory Committee D against the aforesaid Judgment of the High Court contending, inter alia, that the Board is not interested in protecting its property and therefore the aforesaid SLP was filed casually after expiry of the limitation period thereby allowing a large part of immovable property which belong to the temple to go to the E third party which would adversely affect the very functioning of the temple. This Court issued notice in the SLP as also on the application seeking for condonation of delay and also on the application for interim relief. The matter was consequently listed before us for final hearing upon which we heard the learned F counsel appearing for the parties.

7. However, before we advert to the submissions made by the counsel appearing for the respective parties, we may record a few facts leading to the filing of the present appeal so as to enable us to effectively consider the contentions of the G parties. Payappar Sree Dharma Sastha Temple was settled with a large track of land, which was necessary for the better management of the temple. A Board was constituted to look after the management of the property of the Temple – the appellant herein. The appellant is a Body duly constituted by H

the Board as per the bylaws issued by the Board. Large extent of valuable property adjoining the temple was trespassed by some people and from that, an extent of 1.85 acres was allegedly encroached upon by the predecessor of Respondent No. 1. When at the behest of the Temple, orders were issued to evict the predecessor of Respondent No. 1, a suit was filed by him before the Munsiff's court in the year 1958 praying for a decree declaring the plaintiff's rights in the property and in the alternative for a declaration that the State should pay the value of improvements before the eviction of the plaintiff. In the said suit, the Board was not impleaded as a party on the ground that the Board was in unauthorized possession of the property. A decree came to be passed in the said suit in favour of the plaintiff therein. The Board had no knowledge about the said decree. Even the State did not file any appeal against the aforesaid decree passed by the trial court.

8. In the year 1998, the Board filed a suit against Respondent No. 1 in the Munsiff Court for eviction of Respondent No. 1 from the aforesaid suit property. However, the aforesaid suit was dismissed by the Court on the ground that the said suit was not maintainable in view of the decree passed in the earlier suit, which was filed by Respondent No. 1. An appeal was preferred by the Board from the aforesaid Judgment contending inter-alia that the learned Munsiff failed to consider the fraud and collusion with regard to the earlier suit filed in the year 1958 by Respondent No. 1 and that decree in the said suit was obtained behind the back of the Board and that the Board was completely unaware both about filing and disposal of the earlier suit. It was also contended that the learned Munsiff failed to appreciate the purport of Section 27 of the Travancore Cochin Hindu Religious Institutions Act, 1950 (hereinafter referred to as "1950 Act"). There was in fact a complaint preferred by the Secretary of the Renovation Committee of the appellant temple alleging trespass by Respondent No. 1, invoking the supervisory powers of the High Court under the 1950 Act. The same was numbered as TDB

No. 38 of 1996. Since there were two proceedings pending, namely, TDB No. 38 of 1996 before the High Court seeking for exercise of supervisory powers and the appeal pending before the appellate court filed by the Board against the Judgment of the trial court dismissing the suit, the said appeal was transferred to the High Court and same was ordered to be heard along with TDB No. 38 of 1996. The aforesaid cases were taken up for hearing by the Division Bench of the High Court. However, the aforesaid appeal as also the TDB No. 38 of 1996 were dismissed by the Division Bench of the High Court by passing a common order, which is the subject matter of the present appeal.

9. The record placed before us disclose that the State Government on 21.06.1929 passed an order transferring 1 acre 85 cents of land to Thomman Kuruvilla. The said order was also placed on record as Exhibit D-4. Subsequently, however, the State Government passed a second order dated 11.05.1931 rectifying the position by setting aside the previous order dated 21.06.1929 transferring 1 acre 85 cents of land to Thomman Kuruvilla, which was Exhibit D-5. The second order dated 11.05.1931 passed by the State Government was however challenged by the plaintiff (Thomman Kuruvilla) in O.S. No. 53 of 1998 making only the State Government a party and without making the temple authorities, namely, Payappar Sree Dharmasastha Temple a party to the said suit. In the said suit the court granted an injunction by which the State Government was prevented from dispossessing predecessor of Respondent No. 1, namely, the plaintiff. The court of Munsiff subsequently decreed the suit in favour of plaintiff i.e. the predecessor of Respondent No. 1 on the ground that the Divan, who passed order dated 11.05.1931, namely, Exhibit D-5, had no jurisdiction to pass such an order. The High Court which exercised a supervisory power under the 1950 Act directed that a report be given by the Tahsildar, Meenachil Taluk, regarding the area and other details of the property which was being held by Respondent No. 1. On 18.09.1997, the Tahsildar, Meenachil

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filed a detailed report with regard to the property before the Kerala High Court. On 24.10.1997, the High Court passed an order directing the State Government to evict the illegal occupants in the property. On 13.11.1997, the property was handed over the Board after evicting the Respondent No. 1, Joseph and other trespassers and after such eviction the Assistant Devaswom Commissioner has been in possession of the property. On 21.11.1997, an order was passed by the Kerala High Court referring to the memo filed by the government pleader to the effect that the trespassers over the property in Survey No. 383/3 of Block 21 of Lalom village have been evicted and it has been restored to Payappar Sree Dharmasastha Temple on 13.11.1997 and that the Board will carry out the necessary renovation work in the temple without delay. In the meantime, a suit was filed by Respondent No. 1 as stated herein before the Court of Munsiff, which was registered as Suit No. 37 of 1998.

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10. The present appellant has filed the present appeal before this Court contending that the trial court as also the High Court failed to consider the documents on record and decreed the suit filed by Respondent No. 1 only on the ground that the earlier suit filed by predecessor of Respondent No. 1 was decreed in his favour but totally ignoring the fact that in the said suit even the appellant herein or the Board were not made party, and therefore, the said decree was neither binding nor effective against the Board and the temple authority or property. It was also contended in the present appeal by the appellant that the High Court has gone wrong in not adverting to crucial documents like Exhibit A-6 and Exhibit A-7 – Revenue Register for the period from 17.08.1949 as also other relevant documents like Exhibit A-10, which was the Kuthakapattom Register.

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11. The Respondent No. 1, however, contested the aforesaid appeal contending, inter alia, that the present appeal is not even maintainable as the earlier Special Leave Petition No. 15250 of 2005 (CC No. 6642 of 2005) filed by Board was

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A dismissed on 20.07.2005. It was also submitted on behalf of Respondent No. 1 that the appellant has no locus standi to prefer the present appeal, as it is only the Advisory Committee of Payappar Sree Dharmasastha Temple constituted by the Board as per byelaws issued by the Board. Since the earlier B SLP filed by the Board has been already dismissed therefore a body constituted by the Board cannot maintain a separate proceeding of its own. It was also submitted by the Respondents that the Board was plaintiff in O.S. No. 37 of 1998 and also the owner, and therefore, there was no need for the C Board to implead the appellant herein as additional plaintiff. It was also submitted that if the present appeal is entertained and allowed the effect would be that the decree passed by the court in between the Board and the Respondent No. 1, which has attained finality, would be nullified and the appellant herein, who D is neither an original plaintiff, nor a person impleaded as additional plaintiff at any stage of the suit before the decree became final, would be bestowed with a decree. It was also denied that the Respondent No. 1 was a trespasser and that the aforesaid property was assigned in his favour by Augustly Mathai on 21.06.1929.

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12. The said order, however, came to be superceded by a subsequent order dated 11.05.1931. In the meantime, one Varkey Varkey purchased the said land from the aforesaid Augusthy Mathai. The predecessor of Respondent No. 1, F namely, Thomman Kuruvilla, purchased the aforesaid property from Varkey Varkey. It is alleged that Thomman Kuruvilla, the father of Respondent No. 1, was in continuous occupation and possession of the land as if he was the owner. It is only in 1957 that the State Government initiated proceedings under the Land G Conservancy Act, as LC 65 and 66 of 1957 to evict Thomman Kuruvilla from the property. The Board never came forward with any claim at any point of time, till 1998 when they filed O.S. No. 37 of 1998. Since it was the State who initiated eviction proceedings in LC 65 and 66 of 1957 that Thomman Kuruvilla, H father of Respondent No. 1 herein, filed the O.S. No. 53 of 1958,

before the Additional Munsiff Court, Meenachil against the action of the State, seeking a declaration of his title over the aforementioned 1.85 acres of property and a perpetual injunction. It was also contended that failure to implead the Board in that suit was under such circumstances, as the State alone was projected as the owner and believed to be the owner. The suit - O.S. 53 of 1958 filed by the predecessor of Respondent No. 1 was decreed on 30.10.1959 holding that the Divan had no power to cancel the assignment. It was also alleged that Thiruvithamkur Devaswom is a statutory body which came into being only by Act of 1950 and before that the Government and Devaswom was one and the same and there was no separate existence, and therefore, whatever order was passed by the Government prior to 1950 regarding the land in question was also binding upon the Board. It was also contended that Section 27 of the 1950 Act does not nullify any assignment by the Government before the Devaswom came into existence.

13. In order to appreciate the aforesaid contentions we have also perused the provisions of the aforesaid 1950 Act to which reference was made by the counsel appearing for the parties before us. After coming into the force of 1950 Act the administration of temples and all their properties and funds, except the Sree Padmanabhaswami Temple got vested in the Travancore Board.

Section 27 of the Act reads as under:

"Devaswom properties: Immovable properties entered or classed in the revenue records as Devaswom Vaga or Devaswom Poramboke and such other Pandaravaga lands as are in the possession or enjoyment of the Devaswom mentioned in Schedule 1 after the 30th Meenam 1097 corresponding to the 12th April, 1922 shall be dealt with as Devaswom Properties. The provisions of the Land Conservancy Act of 1091 (IV of 1091) shall be applicable to Devaswom lands as in the case of

A Government lands"

14. It is clearly mentioned in the aforesaid provision that the immovable properties entered or classed in the revenue records as Devaswom property, which is in the possession or B enjoyment of the Devaswom effective from 12th April, 1922 shall be dealt with as Devaswom Properties. In the suit filed by the Board a number of documents were placed on record, namely, Exhibit A-6 and Exhibit A-7 – Revenue Register for the period from 17.08.1949 as also other relevant documents like C Exhibit A-10, which was the Kuthakapattom Register, relating to the land in question but it appears from the Judgment passed by the High Court that the High Court came to the conclusion that the Board could not produce any document which shows that the schedule property belong to the Board.

D 15. On consideration of the contentions raised before us, we find that the trial court as also the High Court were persuaded to dismiss the suit filed by the Board, mainly, on the ground that the Respondent No. 1 obtained a decree in his favour by filing a suit in 1980. But it appears to us that the said E suit was filed in the year 1958 by the Respondent No. 1 only against the State Government. Board claims to be the owner of the suit property which was the subject matter of the suit, and therefore, the Board was a necessary party. Since the Board was not arrayed as a party to the suit and decree was obtained F only against the State Government, so, the said decree at the most be binding only against the State and not against the Board. The High Court without even considering the contentions that the Judgment in O.S. 53 of 1958 is not binding on the Board confirmed the said Judgment of the trial court only on the ground G that there is already a decree passed in favour of Respondent No. 1 in O.S. No. 53 of 1958. But while doing so, the High Court totally ignored the earlier Judgment passed by the same High Court and also the report of the Tahsildar with regard to the encroachment of the temple land by the Respondent No. 1. We do not find any discussion of the material on record regarding

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proceeding in the Kerala High Court initiated in exercise of supervisory power and the report obtained by the High Court from the Tehsildar in that regard. There is also no discussion with regard to effect and implication of the orders of the High Court dated 24.10.1997 and dated 21.11.1997.

16. The interpretation sought to be given by the High Court so far as Section 27 of the 1950 Act is concerned, in our considered opinion was incorrect and the High Court was not justified to come to the same as it totally overlooked the fact that Section 27 stipulates immovable properties entered or classed in the revenue records as Devaswom Vaga or Devaswom Poramboke after 12th April 1922 would be dealt with as Devaswom Properties whether or not the same Devaswom properties was the issue which was sought to be resolved and adjudicated by the High Court by looking into various documents which were placed on record. On going through the records, we find that the High Court upheld the order of the trial court dismissing the suit filed by the Board, mainly, on two grounds, namely, the decree passed in suit no. 53 of 1958, which according to the High Court was final and binding and on interpretation of Section 27 of the Travancore Cochin Hindu Religious Institution Act, 1950, which according to us was an incorrect interpretation, particularly, in view of the fact that the findings arrived at by the High Court that the Board could not produce evidence that it was in possession of the property on the date in question.

17. At this stage, we are required to deal with and also to answer the contentions raised by the counsel appearing for Respondent No. 1 that the present appeal itself is not maintainable as the earlier SLP filed by the Board was dismissed on the ground of limitation and the body created by the Board cannot maintain this appeal. It is indeed true that the Board had filed Special Leave Petition No. 15250 of 2005 (CC No. 6642 of 2005) but the said SLP was dismissed on the ground of limitation as the said SLP was filed by the Board

A beyond the period of limitation. The appellant herein is a legal entity in view of the fact that it was constituted by the Board as per the byelaws issued by the Board. While filing the present appeal, the appellant has stated that its interest in filing this appeal is only to protect the Board properties from the B encroachers and to see that the lands belonging to temples and religious worships are not tampered with and also to give effective implementation to the provisions of the Travancore Cochin Hindu Religious Institution Act, 1950, interest and purpose of which is to protect Devaswom properties. The C contention of Respondent No. 1 that the appellant has no locus standi to file the present petition also cannot be raised and canvass at this stage in view of the decision of the Supreme Court in *Gurpreet Singh Bhullar vs. Union of India* (2006) 3 SCC 758, wherein it was held that:

D "18. This contention need not detain us any longer, because permission to file SLP has already been granted by this Court on 6-1-2006".

18. In the present case also we find that an order was E passed by this Court on 27.02.2006 when permission to file the SLP was granted, and therefore, the said question of locus standi cannot be re-agitated before this Court. We may also refer to another decision of this Court in *Jasbir Singh vs. Vipin Kumar Jaggi* (2001) 8 SCC 289, wherein it was held that:

F "**11.** At the outset, a preliminary objection raised by Respondent 1 is dealt with. According to Respondent 1 this appeal has been preferred from an order passed in proceedings to which the appellant was not a party and the appellant has not challenged the order by which his G application for intervention was rejected. It is contended that in the circumstances, the appeal preferred before us is not maintainable. The objection, assuming that it had some force, does not survive the order passed by this Court on 3-11-2000 granting permission to the appellant

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to file the special leave petition." A

19. In *Raju Ramsingh Vasave vs. Mahesh Deorao Bhivapurkr,* (2008) 9 SCC 54, this Court has held as under:

"**46.** We could have dismissed this application on the simple ground that the appellant has no locus standi. We B did not do so because as a constitutional court we felt it to be our duty to lay down the law correctly so that similar mistakes are not committed in future. Apart from the general power of the superior courts vested in it under Article 226 or Article 32 of the Constitution of India, this C Court is bestowed with a greater responsibility by the makers of the Constitution in terms of Articles 141 and 142 of the Constitution. Decisions are galore wherein this Court unhesitatingly exercised such jurisdiction to resort to the creative interpretation to arrive at a just result in regard to D the societal and/or public interest. We thought that it is a case of that nature. We may notice that recently such a legal principle has been considered by this Court in Indian Bank v. Godhara Nagrik Coop. Credit Society Ltd.22 This Court, however, while laying down the law suitably moulded E the relief so as to do complete justice between the parties."

20. In view of the aforesaid settled legal position and also in view of the fact that permission to file special leave petition was granted by this Court, if we find that the order of the High F Court cannot be maintained and is required to be set aside, we would not hesitate to do so because of the locus of the appellant to file the present appeal in this Court. The High Court had passed the impugned order only on the basis of the fact that earlier decree would be binding on the appellant as also the Board and also on interpretation given to Section 27 of the G Travancore Cochin Hindu Religious Institution Act, 1950. We have already held and recorded a finding that both the aforesaid views taken by the High Court are incorrect and required to be re-considered by the High Court.

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A 21. After considering all the relevant documents including the revenue record we find that the High Court could not appreciated the evidence on record and those records would not be ignored by the High Court as the High Court was exercising the jurisdiction of the 1st Appellate Court and B therefore the High Court has committed a manifest error of law apparent on the face of the record.

22. Therefore, we set aside the impugned Judgment and Order passed by the High Court and remit back the matter to the High Court for fresh consideration of all the aspects, C particularly, all the evidence that exist on the record. Since the matter is old, the High Court is requested to dispose of the proceedings as expeditiously as possible. The impugned Judgment and order of the High Court is set aside. Accordingly, the appeal is allowed to the aforesaid extent.

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D.G. Appeal partly allowed.