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IN THE COURT OF THE DISTRICT JUDGE, KANNAUJ

Presiding Officer: Shri Chandroday Kumar (H.J.S), District Judge, Kannauj.

Civil Appeal No. 20 of 2018 (arising out of Original Suit No. 417 of 1997)
Bhagwan Sri Krishna Darbar through Manager **Mizaji Lal**, s/o Sone Lal,
R/o Sikrori, Tehsil Tirwa, District Kannauj – *Appellant (Plaintiff)*

Versus

- 1. **Virendra Singh**,
- 2. **Sarvesh Kumar**,
- 3. **Patiram**, all sons of Jhamman Singh, R/o Village Sikrori, Tehsil Tirwa,
District Kannauj – *Respondents (Defendants)*

Date of Institution of Appeal: 10.04.2018

Date of Judgment of Trial Court: 16.03.2018

Date of Judgment (Appeal): 29.07.2025

Introduction

- 1. **Background of the Appeal:** This first appeal under Section 96 of the Code of Civil Procedure, 1908 has been preferred by Bhagwan Sri Krishna Darbar through its Manager, Mizaji Lal (the *appellant*, who was the plaintiff in the trial court), against the judgment and decree dated 16.03.2018 passed by the learned Civil Judge (SD), Kannauj in Original Suit No. 417 of 1997. By the impugned judgment, the trial court dismissed the plaintiff’s suit for a perpetual injunction against the defendants, without costs. The appellant challenges the said dismissal, asserting that the trial court’s findings are erroneous and warrant reversal.
- 2. **Grounds of Appeal:** The memorandum of appeal contains several grounds, in substance alleging that the trial court committed grave errors in appraisal of issues and evidence. It is urged that while the trial court decided issue no.3 in the plaintiff’s favour by accepting that the suit property is a **Devsthan** (temple property) allotted to the trust, it erred in deciding issue no.4 against the plaintiff. The appellant contends that the learned court below wrongly disbelieved material documentary evidence filed by the plaintiff – such as the Gram Sabha

resolution (Paper No.89Ga) attested by the Village Pradhan, and certain revenue records (Khasra excerpts Paper Nos.206Ga, 207Ga, 208Ga) – by branding them as forged, which, according to the appellant, is a serious error of fact. The trial court is said to have incorrectly observed that the plaintiff was not vigilant in safeguarding his rights or getting them recorded, despite the plaintiff having filed a certified copy of the relevant revenue Khasra showing his name as caretaker of the temple. It is argued that the plaintiff did produce a verified revenue record listing him as caretaker, and thus, the finding of lack of diligence is misplaced. On these grounds, the appellant prays that the appeal be allowed and the impugned judgment and decree dated 16.03.2018 be set aside.

3. **Record on Appeal:** Along with the appeal, the appellant filed certified copies of the trial court's order sheet (Paper No.250 C1/1-31), the impugned judgment (Paper No.251 C1/2-7), and the trial court's decree (Paper No.252 C1/2-3). The original trial court record was also summoned and perused. For clarity, the parties shall hereinafter be referred to in the same manner as before the trial court (i.e. *plaintiff* and *defendants* respectively).
4. Having heard and perused the record thoroughly, I proceed to the findings.

Points for Determination

5. In compliance with Order XLI Rule 31 of the Code of Civil Procedure, the following **Points for Determination** arise for adjudication in this appeal ([Somakka \(Dead\) By Lrs. vs K.P.Basavaraj \(D\) By Lrs. on 13 June, 2022, CIVIL APPEAL No \(s\). 1117 of 2009 SC](#)):

- (a) **Whether the suit was undervalued and whether the court fee paid was insufficient?** – (Issue Nos. (२७) and (२८) as framed by the trial court on 29.07.2008.)
- (b) **Whether Gram Sabha Sikrori had allotted Plot No.218 (area 12 decimal) of village Sikrori as a Devsthan land for the establishment of “Shri Krishna Darbar” trust?** – (Issue No. (२९), framed on 23.05.2011.)
- (c) **Whether the plaintiff Mizaji Lal, as Manager of the said trust, has been in care and management of the suit land?** – (Issue No. (३०).)
- (d) **Whether Defendant No.3 (Sant Sukhram Das alias Patiram) constructed a temple on the suit land in 1990 and whether the defendants have been in possession (ādhyaśan) of the property since then?** – (Issue No. (३१).)
- (e) **Whether the plaintiff is entitled to the relief of permanent injunction or any other relief?** – (Issue No. (३२).)

6. The above points will be discussed presently. It may be noted that Points (a) and (b) relate to preliminary matters of valuation and court

fees, which were not seriously contested in this appeal. The core dispute between the parties concerns Points (c), (d) and (e), which pertain to the status of the suit land as a temple trust property and the rival claims of management/possession. Before analysing the evidence and legal position on those points, a brief outline of the case put forth by each side is necessary for context.

Facts and Contentions of the Parties

7. **Plaintiff's Case:** In his plaint, the plaintiff (Bhagwan Sri Krishna Darbar through Manager Mizaji Lal) averred that a public religious trust was established under the name "*Shri Krishna Darbar*". It is pleaded that on this trust's land, a temple housing a deity idol of *Lord Hanuman (Bajrang Bali)* and other deities was founded. Mizaji Lal claims to have been appointed as the Manager (*Prabandhak*) of this trust, responsible for its upkeep and entitled to sue on its behalf. The plaintiff asserts that to establish the temple, the Gram Sabha of village Sikrori allotted **Gata (Plot) No.218**, admeasuring 12 *decimal* land, for use as "*Devsthan*" (place of deity). It is said that, accordingly, the revenue records were mutated to show the land as *Devsthan* (temple land) belonging to the deity. On this plot, platforms (*chabutras*) were constructed and trees and a flower garden planted, and the entire village community worships at this Devsthan. The plaintiff, as manager, claims to have been performing all upkeep and rituals at the temple on behalf of the trust.

During the pendency of the original suit, the defendants allegedly engaged in acts interfering with the temple's property and management. The plaintiff states that the defendants felled a mango tree standing on the suit land and took away the timber, causing an estimated loss of ₹5,000 to the plaintiff. Further, the defendants are said to have removed the idol of Lord Hanuman from its open placement and locked it inside an almirah (cupboard), and they locked one of the rooms (*kothari*) at the temple site. Despite requests, the defendants refused to hand over possession of the disputed portion or remove the lock, and they allegedly threatened to illegally occupy the Devsthan land, cut the remaining trees and even undertake permanent construction on the land. The plaintiff asserts that the defendants have **no legal interest in the temple land or its trees**, their only right being to worship as members of the public. The plaintiff claims that the defendants' aggressive acts and continuous threats gave rise to a cause of action, compelling him to file the suit for a **permanent injunction** to restrain the defendants from interfering with the plaintiff's management and possession of the Devsthan land and from committing waste (like cutting trees), as well as for recovery of damages for the cut tree.

8. **Defendants' Case:** The defendants, on the other hand, completely denied the plaintiff's assertions. In their written statement (Paper No.96A), they contended that the suit is not maintainable in law and is based on false facts. They dispute that any trust named "*Bhagwan Sri*

Krishna Darbar” was ever validly created or that Mizaji Lal was appointed as its Manager. The defendants specifically challenge the alleged Gram Sabha allotment of Plot No.218 to any temple or trust, asserting that **no such resolution or lawful allotment was ever made** in favour of the plaintiff or the so-called trust. According to the defence, Plot No.218 (area 12 decimal) was **Gram Sabha land (banjar land)** and not exclusively dedicated by any official act to the plaintiff’s deity. They maintain that the plaintiff was never in possession of the suit land in the capacity of Manager or otherwise.

On the contrary, the defendants claim that it is Defendant No.3, one *Sant Sukhram Das* (also known as Patiram, the third defendant and incidentally a sadhu by vocation), who, along with his family, has been responsible for the temple on the suit land. They assert that around the year **1990**, Defendant No.3 established the temple on the barren Gram Sabha land by installing an idol of Lord Hanuman (*Bajrang Bali*), constructing a platform for Baramdev Maharaj, and installing a Shivling (Lord Shiva idol). To develop the temple site, Defendant No.3 purportedly planted numerous trees on the land in 1990, including 20 mango saplings, and several other saplings of jamun, guava, shisham, jackfruit, peepal, eucalyptus, neem, etc., which he nurtured as part of the temple premises. Since that time (1990 onwards), the defendants claim to have been in continuous possession (*ādhyāsan*) of the suit property, treating it as a temple for the village. They state that on festivals and religious occasions, Defendant No.3 has been organising ceremonies like *katha* and *bhagwat* at the site for the villagers, and never has the plaintiff Mizaji Lal organised any such event.

The defendants further assert that the revenue records **do reflect the suit land as Devsthan**, but **with the names of Defendant Nos. 2 and 3 recorded as the persons who established the idols and are caretaking the site**, not the plaintiff. They paint the plaintiff as an interloper whose own agricultural field lies just north of the temple plot, and who has repeatedly tried to encroach upon the temple land to merge it into his field. The incident of the fallen mango tree is explained by the defendants thus: an old mango tree on the land had dried up and fallen during a storm, and in the absence of the defendants, the plaintiff allegedly stole the fallen wood under the cover of darkness and stored it in his house. On discovering this, the defendants lodged a complaint at the Police Station Tirwa. In sum, the defence is that the **plaintiff has no cause of action and no locus standi**, as he is neither a trustee nor manager of the temple, and has never been in possession of the suit land. The suit land remains Gram Sabha land under a public temple, cared for by Defendant No.3 and his family, and the plaintiff’s claims were thus characterised as frivolous and liable to be dismissed.

Points (a) & (b): Valuation and Court Fee

9. Before delving into the substantive issues, Points for Determination (a) and (b) concerning valuation and court fees are addressed. The trial court had framed Issue No.(क) “whether the suit was

undervalued” and Issue No.(ख) “whether the court fee paid was insufficient”. These issues arose from formal pleas, but the trial court’s record indicates they were not pressed and were decided against the defendants. In the present appeal, the respondents have not advanced any argument on these points. Having perused the plaint valuation and the trial court’s findings, this Court finds no error in the determination of valuation and court fee. The subject matter being primarily an injunction and ancillary relief, the valuation appears to have been made as per rules, and the court fee paid was duly adjudged sufficient. Points (a) and (b) are therefore decided in the **negative** against the defendants, confirming that the suit was properly valued and court fees were adequate.

Points (b), (c) & (d): Allotment, Caretaker Status, and Possession

(Framed as Issues (ग), (घ) & (ङ.))

10. These points, which lie at the heart of the dispute, pertain to the status of the suit land as a *Devsthan* allegedly allotted by the Gram Sabha, the plaintiff’s claim of being the caretaker/manager of the temple property, and the defendants’ claim of having established the temple and remained in possession since 1990. As these issues are interrelated, they are taken up together for analysis. The resolution of these questions depends on an appreciation of the evidence on record and the legal principles governing public religious trusts and possession.

Appreciation of Evidence

11. **Plaintiff’s Evidence:** The plaintiff examined himself, **Mizaji Lal**, as PW-1 and one **Shishupal** as PW-2 in oral evidence. In his testimony, PW-1 Mizaji Lal essentially reiterated the plaint narrative – that a trust was formed for the temple, that he was appointed Manager by the village community, and that the Gram Sabha had allotted the land for the temple. Under cross-examination, however, some significant admissions were made. He conceded that he did not secure any written registration or official record of the creation of the trust or his appointment as Manager; no trust deed was ever executed or registered. He further admitted that he had not taken any steps for several years to have the alleged managerial status recorded in the revenue or official records. The plaintiff also acknowledged that the *proposal/resolution* appointing him as Manager (Paper 89Ga) was never confirmed by calling any Gram Sabha official or member who participated in that meeting to testify in court. In fact, PW-1 stated that *no formal trust deed or written constitution of the trust exists*, and whatever arrangement was made was not reflected in the Tehsil or registry records.

In documentary evidence, the plaintiff produced copies of certain **revenue records** to support his claims. From List 7Ga, a Khatauni (record-of-rights)

of Fasli year 1402 (approximately 1995-96 AD) was filed as Paper 8Ga, and a Khasra (register of land cultivation/possession) of Fasli year 1403 was filed as Paper 9Ga. These show that Plot No.218 is recorded as “Devsthan”, indicating its user as temple land. However, importantly, these entries *do not* specify any manager or individual in charge; they merely reflect the land as Devsthan. The plaintiff also filed some older revenue extracts – notably a Khasra of Fasli year 1391 and 1392 (around 1983-84 AD) – which surprisingly contain **his own name recorded as a “caretaker” of the Devsthan**. The plaintiff claims this entry as evidence that even in the early 1980s, his name was shown as overseeing the temple property. Additionally, the contentious Gram Sabha resolution (Paper 89Ga) dated 20.09.1996, which purportedly appointed Mizaji Lal as Manager of the Shri Krishna Darbar Devsthan, was filed in a certified copy form. This document recites that, after due public announcement, a village meeting was held under the chairmanship of the Pradhan (one Smt. Madhuri Yadav) in which the proposal to appoint Mizaji Lal as Manager of the Devsthan was moved and approved. However, this proposal was not proved by the testimony of any signatory or witness to the meeting; it remains an uncorroborated piece of paper produced by the plaintiff. The plaintiff did not examine the Gram Pradhan or any member of the Gaon Sabha or the Secretary of the Land Management Committee to authenticate the resolution. No official record from the Gram Sabha or revenue authority confirming an allotment of the land to the temple was adduced in evidence. In sum, the plaintiff’s case rests on his oral assertions, a purported village resolution (not duly proved), and revenue entries indicating the land’s status as temple land – the latter of which establishes the religious endowment nature of the property but **not** the plaintiff’s managerial right or possession.

12. Defendants’ Evidence: The defendants examined **Sarvesh Kumar** (Defendant No.2) as DW-1. He supported the defence version that the temple was founded by their family (through Defendant No.3) and that they have been in open possession since 1990. He described the plantation of trees, construction of the platform and installation of idols by Defendant No.3, and denied that the plaintiff had any role in the temple’s establishment or management. In cross-examination, DW-1 stood by the stand that no Gram Sabha allotment ever occurred in the plaintiff’s favour and that any entries showing the plaintiff’s name were wrong or manipulated. On the documentary side, the defendants produced certified copies of **revenue documents** as well. From List 167Ga, they filed a Khatauni and Khasra (Paper Nos.168Ga and 169Ga) pertaining to the suit land, and a receipt/bill (Paper 170Ga) presumably related to the purchase of saplings or temple construction. Though the exact details of these documents are not fully spelt out in the trial judgment, it is inferred that the revenue extracts filed by the defendants showed entries of the suit land with a notation of it being Devsthan, possibly along with the name of Defendant No.3 (or his alias) as a caretaker or person in possession. No rebuttal evidence was filed by the plaintiff to specifically counter

the defendants' revenue entries, aside from suggesting they were fabricated. It is notable that *neither side summoned any revenue official* to explain the various contradictory entries, nor was any independent witness (such as a village elder or a worshipper) examined to testify about who actually manages or possesses the temple land. Thus, the evidence boiled down to each side's testimony and the face value of filed documents.

Findings on Allotment and Management

13. Existence of Trust and Validity of Allotment: A foundational question is whether a trust by the name "Bhagwan Sri Krishna Darbar" was legally established and whether the Gram Sabha (village community) validly dedicated the suit land (Plot No.218) for the temple. The burden of proving these facts lay squarely on the plaintiff ([R.V.E. Venkatachala Gounder vs Arulmigu Viswesaraswami & V.P. Temple & ... on 8 October, 2003: AIR 2003 Supreme Court page NO.4548](#)). Under Section 101 of the Indian Evidence Act, 1872, the **person who asserts the existence of a fact must prove it**, and in a civil suit, the initial legal burden never shifts until discharged. In the present case, the plaintiff asserted that a public trust was created and that the Gram Sabha allotted land to it; hence, he had to adduce cogent evidence of these events. The plaintiff, however, has **not produced any primary evidence of the creation of the trust**. There is no registered trust deed, no scheme of management, nor even oral testimony from any villager or official who participated in the alleged establishment of the trust. The only evidence is the so-called resolution (89Ga) dated 20.09.1996, which, as discussed, was not proved in accordance with the law. This document is a private paper that the defendants have not admitted, and it ought to have been proved by calling one of the persons who purportedly signed it or by the custodian of the Gram Sabha records. The plaintiff failed to do so. In the absence of a duly proved dedication or trust instrument, the court cannot simply assume that a valid trust existed. Indeed, under Hindu law, a temple deity itself can be recognised as a juristic person, and a public charitable trust may come into being by virtue of public dedication even without a formal deed. **However, there must be evidence of such dedication** – e.g. long public use of the land as a temple, or official recognition of the temple as a public trust. Here, while it is undisputed that the land has been treated as a *Devasthan* (a temple) in the revenue records, the critical question is who has the right to manage it. There is no government order or Panchayat record presented to show that Plaintiff Mizaji Lal was ever appointed or elected as the sarvarahkar (manager) of this temple by a competent authority.

In this context, it is pertinent to note the legal principle that **a valid trust of property can only be created by the person who owns the property**. [Section 3 of the Indian Trusts Act, 1882](#) defines a trust as "an obligation annexed to

the ownership of property, arising out of a confidence reposed in and accepted by the owner for the benefit of another". Thus, unless the owner of a property expresses an intention to create a trust and vests the property in trust, no trust comes into legal existence. In the present case, the suit land originally belonged to the Gram Sabha under the U.P. Zamindari Abolition & Land Reforms Act (being village common land). Therefore, only the Gram Sabha (through its Land Management Committee with approval of competent authorities) could validly dedicate or allot this land for a temple. **The plaintiff has not shown any resolution of the Land Management Committee duly approved by the Sub-Divisional Officer, or any order of the Collector, that would amount to a lawful transfer or setting apart of this plot as temple land under Gram Sabha administration. Absent such evidence, the claim of a formal allotment remains unproven. On the contrary, the defendants' evidence suggests that no official allotment took place and that the temple came up informally through defendant No.3's efforts.** If the Gram Sabha did not validly allot the land to the plaintiff's trust, then legally the land continues to vest in the Gram Sabha, and any *de facto* arrangement the villagers may have had does not confer legal title or managerial rights on the plaintiff. In fact, the Honorable Allahabad High Court has observed that if a person is not recorded as a tenure-holder or allotted person for Gaon Sabha land, he has no locus to claim rights over it ([Devsthan, Village Saidapur Bhau Thu. ... vs State Of U.P. Thru. Secretary Revenue ... on 27 January, 2021: AIRONLINE 2021 ALL 479](#)). The plaintiff here is not recorded in revenue records as the allottee or lessee of the Gram Sabha land; at best, his name appeared fleetingly as a caretaker in some old Khasra, which entry itself is of dubious origin, given the timing (appearing years before the alleged 1996 resolution appointing him). The trial court justifiably found it incongruous that the plaintiff's name could appear as caretaker in 1982-83 records if he were only appointed in 1996. This anomaly was never explained by the plaintiff, casting serious doubt on the credibility of his claim.

Furthermore, if we assume for the sake of argument that the village community intended to create a trust in 1996, the plaintiff's own evidence is that *no trust deed was registered* and no formal structure was given to the trust. The law mandates that for creating a trust of an immovable property, the trust document should be registered ([Section 5 of the Indian Trusts Act](#) and [Section 17 of the Registration Act, 1908](#), if it were a private trust; for public religious endowments, different provisions apply, but still formal documentation is desirable). The absence of any registered instrument or official recognition means the "trust" has no legal sanctity. The scenario thus is that the land was earmarked as *Devsthan* in revenue records, making the deity the titular owner in a sense (since a Hindu idol is a legal person capable of owning property), but there is **no legally recognized manager or trustee** because the alleged appointment of the plaintiff was not proved or effected in the eyes of law. In such a case, the *status quo* is that the property remains under the Gram Sabha's general oversight with the deity in notional

ownership, and anyone occupying or managing it without authorisation would be an **unauthorised occupant**.

14. Actual Possession and Caretaking: Even leaving aside the technicalities of trust creation, the **central factual issue** remains – who is in actual possession and management of this temple property? Both sides agree that the land itself is Devsthan (dedicated to the deity) and that public worship happens there. There is also no dispute that Defendant No.3 Patiram (Sant Sukhram Das) had been involved with the temple from around 1990, and that trees were planted and a small temple structure exists. The plaintiff's case was essentially that, notwithstanding the defendants' involvement as worshippers, it is he (the plaintiff) who has the legal right and is the recognised caretaker appointed to look after the temple, and that the defendants were merely devotees whose recent misconduct trespassed on the plaintiff's managerial rights. However, the **evidence on record tilts heavily against the plaintiff's assertion of possession or management**. He could not name any regular activities he conducted at the temple, whereas the defendants provided specific details (planting trees, organising festivals) which the plaintiff did not effectively refute. The plaintiff did not produce a single villager from Sikrori to support his claim that he was considered the temple manager or that he performed the daily worship or maintenance. On the contrary, the narrative that Defendant No.3, being a resident sadhu, took the initiative to set up the temple in 1990 is plausible and finds some support from the fact that the earliest physical developments on the land (tree plantation, building of *chabutra*) are all attributed to him in that period. There is also a telling detail: the revenue records for later years that the plaintiff filed (Fasli 1402 and 1403) do **not mention the plaintiff's name at all**, only stating the land is Devsthan. If indeed the plaintiff had been officially put in charge in 1996, one would expect subsequent records to reflect his stewardship, but they do not. Meanwhile, the defendants pointed out that the current revenue records *do* contain the names of Defendant Nos. 2 and 3 as the persons who established the deity and care for the temple. The plaintiff did not produce a certified copy of any *Khatauni* or *Khasra* for years after 1996 to contradict this claim. In fact, the trial court observed that the plaintiff had not obtained an updated copy of revenue entries for 5-6 years prior to his testimony, suggesting a lack of vigilant interest on his part in the official status of the land.

Given the state of evidence, this Court concurs with the trial court's finding that the **plaintiff failed to prove his possession or caretaking control over the suit land**. Possession in law is not just about having one's name on a paper; it is about the factual control and animus. The defendants have been able to show, on a balance of probabilities, that it was Defendant No.3's side which exercised actual control over the temple – they built the structures, tended the land, and even took action to complain when the plaintiff allegedly removed the fallen tree wood. In contrast, the plaintiff's claim

appears to be largely on paper (the unproven resolution and an inconsistent entry in old records).

It is significant to note a general principle in such disputes: **the plaintiff cannot succeed solely by highlighting weaknesses in the defendant's case; he must stand on the strength of his own proof** ([Rangammal vs Kuppuswami & Anr on 13 May, 2011: AIR 2011 SUPREME COURT 2344](#)).

The Hon'ble Supreme Court has reiterated that unless the person bearing the burden of proof discharges it, the court cannot grant relief merely because the opponent's story has gaps[lexology.com](#). Here, even if the defendants' evidence had been less cogent, the fact remains that the plaintiff's own evidence is insufficient to establish his right. Therefore, on Points (b), (c) and (d), this Court finds: **(i) that the plaintiff has not proved any valid dedication/allotment in his favour** beyond the general fact that the land is Devsthan; **(ii) that the plaintiff has not proved his appointment or role as Manager/Caretaker** of the temple property; and **(iii) that the defendants (particularly Defendant No.3 and his family) are in possession and management** of the temple land since around 1990, as evidenced by their acts and the absence of contrary proof.

Legal Position and Analysis

15. Burden of Proof and Trusts: In light of the above findings, it is clear that the plaintiff failed to discharge the burden of proof on critical issues. The law is well-settled that in civil cases, the burden lies on the plaintiff to establish his case, and this burden (often called the "legal burden") remains constant throughout the trial. The **Evidence Act, 1872**, encapsulates this in [Sections 101](#) and [102](#). The plaintiff here needed to prove that he had a right to manage the temple and that the defendants were interfering with that right. As discussed, he did not satisfy the court on these points. Moreover, when it comes to **public religious trusts and temples**, our courts have laid down certain safeguards: a temple property is dedicated to the deity (which is a juristic person in Hindu law) and must be used for the deity's and worshippers' benefit. Those who manage temple properties (shebayats or managers) are essentially trustees or guardians of the idol, not beneficial owners. In the landmark case of ([Bishwanath And Anr vs Shri Thakur Radhaballabhji & Ors on 6 February, 1967: \(1967\) 2 SCR 618](#)), the Supreme Court underscored that *the idol's property must be managed solely for the deity's benefit, and any unauthorised claims or mismanagement by individuals purporting to act for the temple are invalid*. In the present case, the implication is that **neither the plaintiff nor the defendants have any personal right over the land** – it is the deity's property. However, *somebody* must act as the human agency to take care of the deity's interests. The plaintiff put himself forth as that agent (Manager), but failed to convince the Court of his legitimacy. On the other hand, the defendants, by showing their longstanding involvement, effectively make out that if anyone is the de facto manager or caretaker, it is Defendant No.3 (the sadhu who installed

the idol). The Court must be cautious in such scenarios to ensure that private parties do not usurp temple property. If the plaintiff had proven a valid trust and his appointment, the Court would protect him in that role. Conversely, if the defendants are in possession without title, ordinarily, the law would label them trespassers on Gram Sabha land. But given that this is a *public temple*, and the Gram Sabha itself is not objecting to the defendants' role (indeed, the Gram Pradhan's testimony is conspicuously absent on the plaintiff's side), it appears the local community may have accepted Defendant No.3's role. In any case, the **status quo of possession** is with the defendants, and the plaintiff's failure to establish a superior legal right means the Court cannot disturb that status quo in his favour.

16. Unauthorised Occupation and Remedy: If the plaintiff is not the lawful manager and was not in possession, his suit for a mere injunction is misconceived. The Specific Relief Act, 1963 (Section 38) provides that a perpetual injunction can be granted to the plaintiff **to prevent breach of an existing legal right**. Here, the plaintiff has not demonstrated any established legal right to manage or possess the property; therefore, there is no legal injury to him that warrants an injunction. Additionally, it is relevant to note the principle laid down by the Hon'ble Supreme Court in *Anathula Sudhakar vs P. Buchi Reddy (Dead) By Lrs & Ors on 25 March 2008*: (2008) 4 SCC 594, regarding suits for injunction relating to immovable property. The Court held, inter alia, that **if a plaintiff's title is in dispute and he is not in possession, he must seek a declaration of title and recovery of possession, and an injunction suit alone will not lie**. An injunction simpliciter is only appropriate when the plaintiff is in lawful possession and just needs protection against interference. In the present case, the plaintiff was not in possession (as found above), and his very right/title to manage was disputed. Thus, his suit **ought to have been one for declaration of his right and for possession of the temple land**, in addition to an injunction. Having chosen to file only a suit for injunction, the plaintiff was seeking a remedy in equity without first establishing his legal entitlement. This is another reason why the suit was not maintainable. The appellate court cannot ignore that the plaintiff's case, as framed, was fundamentally weak in law. The trial court's decision to dismiss the suit is therefore consistent with these principles. In effect, the plaintiff was asking the court to injunct the de facto custodians of the temple (the defendants) in favour of someone who failed to prove either prior possession or a clear right – granting such relief would have been against settled law.

17. Conclusion on Points (b), (c) & (d): In view of the foregoing discussion, this Court's findings are as follows:

- *Point (b)* (allotment by Gram Sabha) – **Not proved**. The land is recorded as Devsthan, but no credible evidence of a Gram Sabha resolution lawfully allotting it to the plaintiff's trust was presented.

- *Point (c)* (plaintiff's caretaking) – **Not proved.** The plaintiff failed to establish that he was ever validly appointed or functioning as the manager/caretaker of the temple property. On the contrary, his lack of action in securing official recognition and the contradictory record entries undermine his claim.
- *Point (d)* (defendants' possession since 1990) – **Proved, on balance of probabilities.** The evidence supports that Defendant No.3 constructed the temple structure around 1990 and, along with Defendants No.1 and 2, has since been in open possession and performing the role of caretakers of the Devsthan. The plaintiff was unable to demonstrate any instance of his control over the property that was disturbed; rather, it appears he attempted to assert control only after the fact, which the defendants resisted.

As a result of these findings, it follows that the plaintiff was not entitled to the injunction sought, since he neither has a clear right nor possession that requires protection. The learned trial court was correct in dismissing the suit after reaching the conclusion that the plaintiff "failed to prove that he looks after the allotted temple land as Manager and that any of his rights have been infringed".

Point (e): Relief

18. In light of the determinations above, the plaintiff is not entitled to any relief. The trial court had framed Issue (च) as to the relief, which was essentially contingent on the outcome of the other issues. Since the plaintiff failed to establish his case, the proper relief was dismissal of the suit, which was indeed the decision of the trial court. This Court finds no reason to take a different view. There is no relief that can be granted to the appellant. On the contrary, allowing the appeal and granting an injunction in favour of the appellant would amount to dispossessing the defendants who have been in longstanding possession, that too on a tenuous claim. Such an outcome would neither be legal nor equitable.
19. **Appellate Court's Overall Conclusion:** Having re-appraised the entire evidence and arguments, this Court is satisfied that the judgment of the learned trial court is sound and suffers no error of law or fact. The trial court correctly appreciated that the core dispute was about *who is the rightful caretaker of the Devsthan*, not about the religious character of the property (which both sides agree is a temple). It rightly held that the plaintiff failed to prove his asserted right and thus dismissed the suit. An appellate court can interfere with a trial court's findings only if they are shown to be perverse, contrary to law, or based on a misreading of evidence. No such infirmity is present here. On the contrary, the trial court's reasoning aligns with legal principles on trusts and injunctions. This Court thus endorses the trial court's decision in toto. The appeal, devoid of merit, must be **rejected**.

Final Order

. In view of the above discussion and findings, the Court passes the following **Order**:

- The present civil appeal is hereby **dismissed**, and the impugned judgment and decree dated 16.03.2018 passed by the learned Civil Judge (S.D.), Kannauj in Original Suit No.417 of 1997 are **affirmed**.
- The appellant (plaintiff) shall bear his own costs and the costs of the defendants in this appeal, as incurred.
- Let a decree be prepared accordingly. The record of the learned trial court, along with a certified copy of this judgment, shall be transmitted back to the trial court forthwith for information and compliance.

Dated: 29.07.2025

(Chandroday Kumar)
District Judge, Kannauj.