



IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

CIVIL APPEAL NOS. 13345 - 13346 OF 2015

(@ Special Leave Petition (Civil) Nos. 13229 - 13230 of 2009)

SYED MOHAMMED GHOUSE PASHA KHADRI

... APPELLANT

versus

SYED MOHAMMED ADIL PASHA KHADRI & ORS. ETC.

... RESPONDENTS

J U D G M E N T

VIPUL M. PANCHOLI, J.

1. These are the civil appeals challenging the common judgment and order dated 15.04.2008 passed by the High Court of Karnataka at Bengaluru in Regular Second Appeal Nos. 1574 of 2005 and 1575 of 2005, whereby the High Court dismissed the second appeals filed under Section 100 of the Code of Civil

Procedure, 1908 (hereinafter referred to as “*the CPC*”), and affirmed the concurrent judgments and decrees of the Courts below, which had declared Syed Mohammed Adil Pasha Khadri (Respondent No. 1 herein) as the lawful Sajjadanashin of the Hazarath Mardane-e-Gaib Dargah, Shivasamudram, located in Chamarajanagar District, Karnataka.

FACTUAL BACKGROUND

- 2.** The present dispute concerns succession to the office of Sajjadanashin of the Hazarath Mardane-e-Gaib Dargah, Shivasamudram, located in Chamarajanagar District, Karnataka.
- 3.** The original Sajjadanashin of the Dargah was Peer Pasha Khadri, as per the Wakf Board’s Notification dated 01.04.1965. Thereafter, Peer Pasha Khadri appointed his eldest son, Akhil Pasha Khadri, as Jan-Nasheen Sajjada (i.e. successor of the Sajjadanashin) of the Dargah. On 27.10.1980, Akhil Pasha Khadri passed away, predeceasing his father.

- 4.** On 26.02.1981, at a religious function held in the presence of Sajjadanashins of other dargahs and elders in the community, Peer Pasha Khadri appointed and nominated Syed Mohammed Adil Pasha Khadri (respondent no. 1 herein), his grandson and son of late Akhil Pasha Khadri, to be the Jan-Nasheen Sajjada of the Dargah. The appointment and nomination was reduced in writing as Khilafatnama dated 26.02.1981 (Ex. P-72). On 06.10.1988, the original Sajjadanashin passed away and the respondent no. 1 became the Sajjadanashin of the Dargah.
- 5.** The appellant (Syed Mohammed Ghouse Pasha Khadri), being the youngest son of the original Sajjadanashin, asserts a rival claim to the office of the Sajjadanashin, relying upon certain documents, including a General Power of Attorney (Ex. D-1), a handwritten Khilafatnama (Ex. D-13) and an affidavit (Ex. D-23) executed by the predecessor. Whereas, the respondent no. 1, being the grandson of the original Sajjadanashin, claims succession to the same office on the basis of a nomination made by the predecessor in Khilafatnama dated 26.02.1981 (Ex. P-72).

- 6.** Thus, two civil suits came to be instituted before the Principal Civil Judge (Senior Division), Mysuru:
- A.** O.S. No. 724 of 1988 (renumbered as O.S. No. 342 of 1995), instituted by the appellant, asserting his claim as Sajjadanashin of the Dargah. Respondent No. 1 was not made a party to the suit and later filed an impleadment application.
- B.** O.S. No. 233 of 1989, instituted by the respondent no. 1, seeking declaration that he was the duly nominated Sajjadanashin of the Dargah and for consequential reliefs.
- 7.** By a common judgment and decree dated 14.11.2000, the Trial Court decreed O.S. No. 233 of 1989 and dismissed O.S. No. 342 of 1995, holding that the office of Sajjadanashin was hereditary in nature, and thus, the respondent no. 1 had been validly nominated through Khilafatnama dated 26.02.1981 (Ex. P-72) and the documents relied upon by the appellant, including Ex. D-1, Ex. D-13 and Ex. D-23, did not confer Sajjadanashin-ship.

- 8.** The appellant preferred two separate appeals, namely R.A. No. 8 of 2004 (against the decree in O.S. No. 233 of 1989) and R.A. No. 9 of 2004 (against the dismissal of O.S. No. 342 of 1995). Both the Regular Appeals were dismissed by the First Appellate Court and the findings of the Trial Court were upheld, by a common judgment and order dated 07.07.2005.
- 9.** The Regular Second Appeals preferred by the appellant, namely R.S.A. Nos. 1574 and 1575 of 2005, were dismissed by the High Court of Karnataka, by the impugned common judgment and order dated 15.04.2008.
- 10.** *Vide* the impugned judgment, the High Court recorded that the Trial Court had decreed O.S. No. 233/1989 in favour of the respondent no. 1 and O.S. No. 342/1995 (appellant's suit) was dismissed, the First Appellate Court had reappreciated the evidence and affirmed the findings. Thus, there were concurrent findings of fact in favour of the respondent no. 1. The High Court accepted the concurrent finding that the office of Sajjadanashin is hereditary in nature and succession was governed by established practice and nomination. It was held

that the Khilafatnama dated 26.02.1981 (Ex. P-72) was duly proved and executed by the original Sajjadanashin, and thus, the nomination of the respondent no. 1 was valid and further rejected allegations of fabrication or interpolation with Ex. P-72. It was further held that Ex. D-1, Ex. D-13 and Ex. D-23 relied upon by the appellant did not amount to nomination and these documents did not confer Sajjadanashin-ship.

- 11.** Thus, the High Court concluded that the findings were factual in nature, no perversity was demonstrated and no substantial question of law arose under Section 100 of the CPC. Accordingly, the Regular Second Appeals were dismissed and the Trial Court and First Appellate Court judgments were affirmed, thereby declaring the respondent no. 1 as the rightful Sajjadanashin.
- 12.** Aggrieved by the impugned judgment, the appellant filed Special Leave Petitions (Civil) Nos. 13229 and 13230 of 2009 before this Court. This Court, by the interim order dated 14.09.2009, directed the parties to maintain status quo and, by the order

dated 04.11.2015, leave to appeal was granted, culminating into the present appeals.

SUBMISSIONS ON BEHALF OF THE APPELLANT

- 13.** Mr. Rabin Majumder, learned Counsel appearing on behalf of the appellant, at the outset, disputes the fact that the father of the respondent no. 1 was appointed as Jannasheen Sajjada in 1966. It is stated that the father of the respondent no. 1 was never appointed as Jannasheen or Sajjadanashin of the Dargah, nor did he hold any Khilafatnama at any time. The record demonstrates that he permanently shifted to Bangalore in 1966, after mortgaging certain Dargah lands and ceased to participate in the affairs of the Dargah.

- 14.** It is stated that during this period, the appellant was granted Khilafatnama on 06.07.1969 (Ex. D-13) and thereafter maintained and managed the Dargah continuously from 1966 to 1981 and subsequently from 1982 onwards. Only after the demise of the original Sajjadanashin in 1988 did the respondent no. 1 seek to intervene by getting himself impleaded in O.S. No. 724 of 1988 (renumbered as O.S. No. 342 of 1995), thereby

disputing the appellant's long-standing management of the Dargah.

- 15.** Learned Counsel submitted that the Courts below committed serious errors in treating Khilafatnama dated 26.02.1981 (Ex. P-72) as conferring Sajjadanashinship despite it being only a record of Khilafat, and failing to properly interpret the Urdu, Persian and Arabic terminology used in the original document. It is stated that the document does not confer the office of Sajjadanashin, as under Islamic practice, the status of Khalifa or Jannasheen is distinct from that of Sajjadanashin, and the Courts below erred in treating the document as conferring succession to the office.
- 16.** The office of Sajjadanashin primarily relates to spiritual functions, including religious teaching, conduct of Urs, Sandal ceremonies and spiritual discourse at the Dargah. It is submitted that the Courts below erred in treating Sajjadanashinship as a purely documentary right, contrary to the principles laid down in ***Syed Mohd. Salie Labbai v. Mohd. Hanifa (1976) 4 SCC 780***. It is further submitted that the

Courts below wrongly assumed the existence of a custom without proof, contrary to the principle that custom must be specifically pleaded and strictly proved, as held in the case of ***Ebrahim Aboobaker v. Tek Chand Dolwani, AIR 1953 SC 298.***

17. It is further submitted that the Courts below erred in ignoring material evidence, including Ex. D-1 (registered GPA of 1981) and Ex. D-23 (affidavit of the original Sajjadanashin), and the testimony of several witnesses supporting the appellant's claim to the office of Sajjadanashin. It is submitted that the affidavit executed by the predecessor Sajjadanashin was wrongly disregarded, despite affidavits being admissible evidence of intention and nomination, reliance is placed on ***Narbada Devi Gupta v. Birendra Kumar Jaiswal (2003) 8 SCC 745.***

18. It is further submitted that historically, movable and immovable assets of the Dargah, including Golak collections, Tabeez, Fateha offerings and other income, have been shared among the descendants of the original Sajjadanashin, who constitute the stakeholders of the Wakf property, and any declaration

recognizing a new Sajjadanashin cannot extinguish the established rights of other stakeholders, thus, the declaration granted by the trial court disregards this long-standing practice of shared management and benefit. In addition, it is submitted that the Wakf Board should not open the Golak solely in the presence of the Sajjadanashin, but in the presence of all stakeholders, in accordance with the established practice followed over generations.

- 19.** Learned Counsel for the appellant submitted that Ex. P-72 suffers from the following serious suspicious circumstances:
- A.** The original document only recorded the grant of Khilafat to the respondent no. 1.
 - B.** The word “Jannasheen” was subsequently inserted in the document by the same scribe, who was the maternal uncle of the respondent no. 1.
 - C.** This interpolation occurred nine years after the death of the original Sajjadanashin and the addition was not

countersigned or authenticated with the proper seal of the original authority.

- 20.** It is stated that these serious suspicious circumstances surrounding Ex. P-72 were ignored by the Courts below, despite the requirement of a heightened standard of proof as held in the case of ***H. Venkatachala Iyengar v. B.N. Thimmaamma, AIR 1959 SC 443***. It is therefore prayed that Ex. P-72 be sent to the Central Forensic Science Laboratory (CFSL) for examination, in the interest of justice before final adjudication, to determine whether the word “Jannasheen” was inserted later, whether the ink and handwriting differ, and the approximate time of the original writing and subsequent additions.
- 21.** Learned Counsel for the appellant further submitted that the burden of proof was wrongly shifted onto the appellant, though the respondent no. 1, as the propounder of Ex. P-72, bore the primary burden, reliance was placed on ***Rangammal v. Kuppuswami (2011) 12 SCC 220***.
- 22.** Learned Counsel for the appellant further relied upon extensive documentary evidence, including 163 documents and

correspondence with the Wakf Board, demonstrating that the appellant had been recognized and functioning as Jannasheen/Sajjadanashin both during the lifetime of the original Sajjadanashin and thereafter.

- 23.** In light of the above submissions, learned Counsel for the appellant submitted that the findings of the Courts below are legally unsustainable, having been based on misinterpretation of documents, failure to consider material evidence and incorrect application of legal principles governing succession to the office of Sajjadanashin. It is therefore submitted that the impugned judgment is liable to be set aside.

SUBMISSIONS ON BEHALF OF RESPONDENT NO. 1

- 24.** Ms. Pritha Srikumar Iyer, learned Counsel for the respondent no. 1, at the outset, submitted that the Sajjadanashin is the spiritual head and manager of the Dargah, superior to the Mutawalli and responsible for religious guidance and administration. The position is traditionally hereditary and the founder or incumbent Sajjadanashin has the authority to

nominate a successor (Jan Nasheen) from among his disciples (Khalifas).

- 25.** It is submitted that the Trial Court declared the respondent no. 1 as Sajjadanashin and dismissed the appellant's suit, the First Appellate Court dismissed both appeals filed by the appellant, and the High Court of Karnataka dismissed the Second Appeals, thereby confirming the findings in favour of the respondent no. 1.
- 26.** Thus, all three courts (Trial Court, First Appellate Court, and High Court) concurrently held that:
- A.** Peer Pasha Khadri was the original Sajjadanashin and the office of the Sajjadanashin was hereditary in nature.
 - B.** The respondent no. 1 was validly appointed successor (Jan Nasheen) through a religious ceremony witnessed by fakirs, murids and other Sajjadanashins.
 - C.** The appointment was documented contemporaneously in Ex. P-72 dated 26.02.1981.

- D.** The appellant was present at the ceremony and attested the document as a witness, demonstrating acknowledgment of the appointment.
- E.** The documents relied upon by the appellant do not constitute a valid nomination of successor, as the General Power of Attorney (Ex. D-1) operated only during the lifetime of Peer Pasha Khadri and the Affidavit (Ex. D-23) does not amount to a Khilafathnama or appointment as Sajjadanashin.
- 27.** Learned Counsel for the respondent no. 1 submitted that the contention of the appellant that only a living son can succeed as Sajjadanashin was never pleaded in the written statement and is an afterthought. In earlier proceedings, the appellant himself admitted that a Sajjadanashin can nominate any successor and there is no rigid rule of succession.
- 28.** It is further submitted that the argument of the appellant that the respondent no. 1 resided in Bangalore was examined and rejected by both the Trial Court and the First Appellate Court.

It is stated that the evidence shows that the respondent no. 1 also resided in Shivasamudram.

- 29.** Learned Counsel for the respondent no. 1 submitted that three courts have concurrently found, on facts and law, that the respondent no. 1 was validly appointed successor (Jan Nasheen) and is the rightful Sajjadanashin of the Dargah. In addition, the contentions raised by the appellant lack pleading, legal basis or evidentiary support, and therefore, the findings in favour of the respondent no. 1 deserves to be upheld.

ANALYSIS, DISCUSSION AND FINDINGS

- 30.** Having heard the learned Counsel appearing for the parties and having carefully perused the pleadings, documentary material and the judgments of the Courts below, the principal question which arises for consideration before this Court is whether the High Court was justified in dismissing the Regular Second Appeals filed under Section 100 of the CPC, on the ground that no substantial question of law arose for consideration, particularly in the light of the concurrent findings recorded by the Trial Court and the First Appellate Court with respect to the

succession to the office of Sajjadanashin of Hazarath Mardane-e-Gaib Dargah, Shivasamudram.

- 31.** At the outset, it must be emphasised that the jurisdiction of the High Court under Section 100 of the CPC is confined to examination of substantial questions of law arising from the judgment of the First Appellate Court, as held in the case of ***Santosh Hazari v. Purushottam Tiwari, (2001) 3 SCC 179.***

It is well settled that concurrent findings of fact recorded by the Courts below cannot ordinarily be interfered with in second appeal unless such findings are shown to be perverse, based on no evidence, or arrived at by ignoring material evidence or by applying erroneous legal principles.

- 32.** In the present case, both the Trial Court and the First Appellate Court, upon detailed appreciation of oral and documentary evidence, have recorded concurrent findings that Syed Mohammed Peer Pasha Khadri was the original Sajjadanashin of the Dargah and that the office was hereditary in nature, with the incumbent Sajjadanashin possessing the authority to nominate a successor.

33. In this regard, the First Appellate Court relied upon the admission made by the official witness of the Wakf Board. The appellate court recorded the following extract from the cross-examination of DW-6:

“In column No.4 there is mention that Mohammed Peer Pasha Khadri is the Sajjadanasheen... Instead of pronoging as Mutatwlli by mistake it has been printed as Sajjadanasheen. It is a true that the said notification has not been so far corrected or cancelled... It is true that the designation of Sajjadanasheen is a hereditary post.”

Therefore, the appellate court rightly rejected the contention that the predecessor was merely a Mutawalli and held that the office of Sajjadanashin was hereditary in character.

34. Apart from the concurrent findings recorded by the Courts below, it is necessary for this Court to independently examine the legal principles governing succession to the office of Sajjadanashin, particularly in the context of religious endowments and Wakf institutions.

- 35.** The office of Sajjadanashin occupies a distinctive position in Islamic religious institutions connected with Dargahs and Sufi shrines. The Sajjadanashin is not merely an administrative manager of Wakf property but is primarily the spiritual head of the shrine, responsible for preserving the spiritual lineage (silsila), guiding disciples (murids), conducting religious ceremonies such as Urs and Sandal, and maintaining the spiritual traditions associated with the shrine.
- 36.** The legal position in this regard has been recognised by this Court in ***Syed Mohd. Salie Labbai (supra)***, wherein it was observed that the office of Sajjadanashin is fundamentally spiritual in character, though it may carry with it certain incidental rights relating to the management of the shrine. Similarly, ***Mulla: Principles of Mahomedan Law (20th Edition) in Chapter XII***, defines the office of Sajjadanashin as under:

“The word “sajjadanashin” (spiritual superior) is derived from sajjada, that is, the carpet used by Mahomedans for prayer, and nashin, that is, sitting. The sajjadanashin takes precedence on the carpet

during prayers. The office of a mutawalli is a secular office; that of a sajjadanashin is a spiritual office, and he has certain spiritual functions to perform. All dargahs are not Khankhas but there is nothing uniform or rigid. All Sajjadanashins are not necessarily mutawallis of the properties of the institution. The office of mutawalli may be in another person. A Sajjadanashin was said in this case to resemble a Mahant of a Hindu Math. A sajjadanashin of a Khankhah enjoys the unique position of being a spiritual preceptor and a mutawalli. Differences between a sajjadanashin and a mutawalli were pointed out in Ikramiul Haq Shah v. Board of Wakfs (Rajasthan). The founder is generally the first sajjadanashin and after his death the spiritual line is continued by a succession of sajjadanashins.”

- 37.** At the same time, Indian courts have consistently held that succession to such religious offices is ordinarily determined by custom, usage, or nomination by the incumbent, depending upon the particular traditions governing the institution. In the context of Muslim religious institutions, the Supreme Court has recognised that offices such as that of a Sajjadanashin or Mutawalli may devolve in accordance with the established

customs of the institution, including nomination by the predecessor rather than strict rules of inheritance, as held in **Syed Mohd. Salie Labbai (supra). Mulla: Principles of Mahomedan Law (20th Edition) in Chapter XII**, provides for the same as under:

“In the absence of a direction in the wakfnama the succession to the office of sajjadanashin is regulated by custom. One custom is that the “bhek” or order i.e., an electoral body consisting of fakeers and murids, instal a competent person generally a son or nominee of the late sajjadanashin. In a case before the Privy Council the “bhek” delegated their power to elect a sajjadanashin and it was held that the appointment of the sajjadanashin made in this manner was valid. If the Court is appointing a sajjadanashin, it should take account of the spiritual tradition and appoint if possible a descendant of the founder. As to the importance of nomination by the last sajjadanashin see the observations of Agha Haider J., in Ghulam Mahommad v Abdul Rashid. The Lahore High Court has decided that in the absence of directions in the Deed of Trust, or usage, a sajjadanashin can nominate his successor.”

38. From the record it transpires that the respondent no. 1 had been nominated as Jan-Nasheen Sajjada by the original Sajjadanashin through the Khilafatnama dated 26.02.1981 (Ex. P-72). The said document was accepted through a religious ceremony attended by members of the fraternity and other Sajjadanashins. It also transpired from the record that prevailing practice governing the Dargah recognises nomination by the incumbent Sajjadanashin as a valid mode of succession. It would, however, emerge that the document Ex. P-72, originally written in Urdu, Persian and Arabic, had been translated into English for the purpose of the proceedings. Upon analysing the document together with the surrounding circumstances and the oral evidence adduced by the parties, it can be said that the Khilafatnama conferred upon the respondent no. 1, the spiritual authority previously exercised by the incumbent Sajjadanashin and thereby constituted a valid act of nomination.

39. At this stage, it is relevant to observe that the execution of the said document was supported by the testimony of the attesting

witnesses. One of the witnesses, who was himself associated with another Dargah, deposed that the predecessor Sajjadanashin had formerly conferred spiritual authority upon the respondent no. 1 in the presence of several people. We find that the testimony of the said witness is credible and in fact the present appellant had failed to elicit any material in cross-examination that could discredit the evidence of the aforesaid witness.

40. From the record it also transpires that another witness also corroborated the circumstances in which the Khilafatnama was executed and described the religious ceremony during which the respondent no. 1 was nominated. Thus, the appellant has failed to point out from the documentary as well as oral evidence that the document Ex. P-72 is a fabricated document.

41. Now, it is the contention of the appellant that Ex. P-72 merely conferred Khilafatnama and did not amount to nomination as Sajjadanashin. From the examination of the aforesaid document as a whole and considering the surrounding evidence as well as the findings recorded by the Courts below, it can be

said that the document might not expressly use the term “Sajjadanashin”, but, it clearly conveyed the intention of the incumbent Sajjadanashin to confer his spiritual authority upon the respondent no. 1 and to designate him as a successor. It is also the contention of the appellant herein that the word “Jan-Nasheen” had been subsequently interpolated in the said document. With regard to the said contention, we may observe that the appellant himself had admitted the existence and acceptance of the document, and once such admission was made, the burden shifted upon the appellant to establish the alleged interpolation. However, the appellant neither effectively cross-examined the attesting witnesses on this issue nor sought examination of the said document by a hand writing expert. Thus, in the absence of any substantive evidence supporting the allegation, the contention of the appellant is required to be rejected. We may add that at this stage it is not open for the appellant to contend that the said document be sent for necessary examination to the concerned expert.

- 42.** It is a settled principle that mere suspicion cannot displace a document which has otherwise been duly proved. The burden of establishing forgery or interpolation lies on the party alleging it and this principle has been reiterated in ***H. Venkatachala Iyengar (supra)***. In the present case, the appellant failed to produce any cogent evidence to substantiate the allegation of interpolation before this Court as well.
- 43.** It is also required to be observed at this stage that the appellant himself had earlier admitted the practice of succession through nomination by the incumbent Sajjadanashin. Thus, the admission of the appellant demonstrated that the office was not confined strongly to succession by a living son and that nomination by the incumbent Sajjadanashin was recognised in practice. Significantly, the material on record does not establish any rigid rule that the office must invariably devolve upon the eldest son of hereditary succession. Thus, the contention raised by the appellant that under Mohammadan law, only a living son may succeed to the office of Sajjadanashin is without factual basis and no material is produced by the appellant to support

this argument. The extracts produced by the appellant from ***Mulla (supra)*** in the course of oral submissions pertain to succession to property and not to appointment of a successor as Sajjadanashin.

- 44.** On the contrary, the evidence produced before the Courts below indicates that the prevailing practice recognises the authority of the incumbent Sajjadanashin to nominate his Jan-Nasheen. We have gone through the reasoning recorded by the Courts below with regard to the aforesaid aspect based on documentary as well as oral evidence and we are of the view that the Courts below have not committed any error while recording the findings to the aforesaid effect.
- 45.** The appellant has also relied upon certain documents, namely the General Power of Attorney (Ex. D-1), the Khilafatnama dated 06.07.1969 (Ex. D-13) and the Affidavit (Ex. D-23), to assert his claim to the office of Sajjadanashin.
- 46.** We have examined the aforesaid documents upon which the appellant has placed reliance. From the General Power of Attorney (Ex. D-1), it can be said that the said document was

merely a power of attorney authorizing the appellant to act on behalf of the executant and did not confer any right of succession to the office. This view is consistent with the settled legal principle that a power of attorney creates only an agency relationship and does not transfer title or confer independent rights. The authority granted under such an instrument is ordinarily co-terminus with the life and authority of the principal. Consequently, a power of attorney cannot operate as a mode of succession to a religious office.

- 47.** This position has been authoritatively affirmed by this Court in ***Suraj Lamp & Industries (P) Ltd. v. State of Haryana, (2012) 1 SCC 656***, where it was held that a power of attorney is merely an instrument of agency and cannot by itself transfer ownership or create proprietary rights. Applying the same principle, a document which merely authorises another person to act on behalf of the executant cannot be construed as conferring succession to a spiritual office such as that of a Sajjadanashin.

48. So far as the affidavit (Ex. D-23) is concerned, the same cannot be recorded as a valid instrument of nomination. It is required to be observed that from the evidence on record, it transpires that an act as significant as the appointment of a successor to the office of Sajjadanashin would ordinarily be performed through a clear and formal act consistent with the traditions of the institution. Thus, in absence of any other reliable corroborative evidence demonstrating that the affidavit represented such an act of nomination, we are of the view that the Courts below have rightly declined to treat the said document conferring any right of succession.

49. Another contention raised by the appellant is with regard to certain correspondences, photographs and oral testimonies to suggest that the appellant had been managing the affairs of the Dargah for several years. We have examined the said evidence and we are of the view that, at best, the said evidence indicated that the appellant had participated in certain managerial or ceremonial activities associated with the Dargah, however, such

participation by itself cannot establish succession to the office of Sajjadanashin.

- 50.** With regard to the contention raised by the appellant that the respondent no. 1 resided in Bangalore and not at Shivasamudram, it is a specific finding recorded on the basis of the evidence by the Courts below that the respondent no. 1 was also a resident of Shivasamudram, and therefore, when a concurrent finding of the fact is recorded by the Courts below, at this stage, the said finding of fact cannot be interfered with.
- 51.** The appellant has further contended that recognition of the respondent no. 1 as Sajjadanashin would extinguish the rights of other family members or stakeholders in the Wakf property. This submission is misconceived. The present litigation concerns succession to the office of Sajjadanashin and not the proprietary rights of descendants in Wakf property or income. The recognition of one individual as Sajjadanashin does not determine or extinguish the independent legal rights of other beneficiaries under Wakf law.

- 52.** Considering the entire evidence on record, we are of the view that the respondent no. 1 was nominated as Jan-Nasheen by the original Sajjadanashin through the Khilafatnama dated 26.02.1981 (Ex. P-72) and lawfully succeeded to the office of Sajjadanashin upon the demise of the predecessor in the year 1988.
- 53.** We have also gone through the reasoning recorded by the High Court while exercising jurisdiction under Section 100 of the CPC, we are of the view that the High Court has correctly held that no substantial question of law arose for consideration.
- 54.** In fact, the entire challenge raised before this Court essentially seeks a re-appreciation of evidence and reconsideration of factual findings recorded by three courts. It is well settled that this Court, while exercising jurisdiction under Article 136 of the Constitution, does not ordinarily interfere with concurrent findings of fact unless such findings suffer from manifest illegality or result in grave miscarriage of justice.
- 55.** Having examined the record, we find no such infirmity in the judgments of the Courts below.

56. In view of the aforesaid discussion, we find no merit in the present appeals.

CONCLUSION

57. Accordingly, the present Civil Appeals are dismissed.

58. Interim orders, if any, stand vacated.

59. Pending applications, if any, stand disposed of.

..... **J.**
[M.M. SUNDRESH]

..... **J.**
[VIPUL M. PANCHOLI]

NEW DELHI
02nd April, 2026