IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 16th OF JUNE, 2026

WRIT PETITION No. 1737 of 2011

RAMAKANT TIWARI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Siddharth Sharma through Video Conferencing along with Shri Shubham Manchani - Advocates for the petitioner.
Shri V.S. Choudhary - G.A. for the respondents/State.

Heard on : 15.4.2026
Pronounced on 16.6.2026

ORDER

The petitioner has filed this petition under Article 226 of the Constitution of India for following reliefs:-

"7.1 That by issuance of a writ in the nature of Mandamus the Hon'ble High Court may be pleased to call the records of all the three Courts relating to the case of the petitioner.
7.2 That by issuance of a writ in the nature of certiorari the Hon'ble High Court may be please to quash the order dated 14/03/2006 (Anx.P/3) and order dated 12/11./007(Anx.P/4) P/5 (29.6.10) and restore the order passed by the respondent no.5 on 31/05/2005(Anx.P/2) by removing the name of the respondent no.2 from the revenue record of the petitioners land.
7.3. That by issuance of a writ in the nature of Mandamus the Hon'ble High Court may be pleased to direct the respondents to issue the NOC in favour of the petitioner so that the petitioner and his other family members can alienate the property to recover from their financial problems.
7.4 Any other direction order as may be deemed fit in the circumstances may also be awarded along with the cost of litigation."

2. The facts of the case are that a land situated at village Garha admeasuring 1.011 Hectare at Khasra No.77 was purchased by the father of the petitioner long back i.e. 10/10/1934 from one Keshri s/o Charanlal and since thereafter the family of the petitioner is in cultivating possession over the land till date. After death of petitioner's father, name of the petitioner and the other family members were mutated into the revenue record of the said land. Till the year 1985-86 the land was properly recorded in the name of the family of the petitioner but in the year 1985 the name of the Collector was inserted into the revenue record of the petitioner's land as Administrator, against which the petitioner made an application before the Nazool Officer/respondent no.3 for correction and for issuance of the NOC in favour of the petitioner. The respondent no.3 conducted an enquiry and called the report in regard to the land of the petitioner. The enquiry report dated 11/04/2005 (Annexure P/1) was submitted before the respondent no.3 and it was found in the enquiry that the name of the respondent no.2 was illegally entered into the land record of the petitioner's land. The respondent no.5, on the basis of the report submitted by the reporting authority, has passed an order on 31/05/2005 (Annexure P/2) for rectification of the revenue record and directed for the correction of the revenue record of the petitioner’s land by removing the name of the respondent no.2 from the record. Thereafter, on the basis of a forged complaint in the name of one Ramlal submitted before the respondent no.2, the respondent no.2 has taken suo-moto cognizance and issued a notice to the petitioner and thereafter the respondent no.2 passed an order dated 14/03/2006 (Annexure P/3) for correction of the

revenue record, as it was prior to the order dated 31/05/2005, which order was challenged by the petitioner before the respondent No.1 by filing an Appeal. The respondent no.1 also rejected the appeal of the petitioner vide order 12/11/2007 (Annexure P/4). Thereafter, the petitioner then filed a revision against the order passed by the respondent no.1, before the Board of revenue. The Board has also rejected the revision vide order dated 29/06/2010 (Annexure P/5). Therefore, this petition.

3. The learned Counsel for the petitioner submits that the land in question was purchased by the father of the petitioner, which was not given on the basis of *"Daan Patra"* as observed in Paragraph No.6 of the impugned order. So also the order dated 14/03/2006 passed by respondent No.2 is clearly in violation of the principle of law, therefore, requires to be quashed, and the name of respondent No.2 on the land in question may be directed to be removed from the revenue records.

4. Per contra, learned Counsel for the respondents/State submits that a bare perusal of the order dated 29.06.2010, more specifically, para 6 clearly reveals that as per the revenue records pertaining to year 1955-56 the land in question was recorded in the name of Shri Shankarji Ka Chabutra Devi Ki Madiya, Jhaulal S/o Manrakhan Tiwari as Bhoomi Swami and the said revenue records has been recorded in the name of -Jhaulal S/o Manrakhan on the basis of Dan patra dated 30.08.1936, therefore, it is clear that the lands belongs to temple and the name of Jhaulal was recorded as Sarvarakar. Therefore, such land being recorded in the Sarvarakar category belongs to temple, hence, the land in question has rightly been recorded in

the name of Collector as Administrator. It is further submitted that in order dated 29.06.2010, reliance has also been placed in circular dated 14.03.1983 bearing No.252/546/6/83 which provides that all those temples which are not governed by the trust and the land abutting thereto is recorded in the name of Mandir/Dharmik Sansthan and as per circular dated 12.04.1974 in other like temples, along with the name of priest, the name of Collector in the capacity of Manager should also be recorded, therefore, it is in compliance of the said circulars, the name of Collector has been shown as Manager. Therefore, there is no substance in the petition and the same may be dismissed.

5. Heard learned Counsel for the parties and perused the record.

6. From perusal of the record, it is found that the land attached to the temple is recorded in the name of deity. Under the provisions of Code of Civil Procedure, the deity is treated to be a minor and is always represented by a next friend. It is not in dispute that the temple and the land attached to it was settled by a private person. There is no material available on record to substantiate that the land has been recorded as a Government land. The Hon'ble Apex court in the case of ***State of Madhya Pradesh Vs. Pujari Utthan Evam Kalyan Samiti,*** **(2021) 10 SCC 222,** has elaborated the aspects and nature of the land attached to deity and also delineated the procedure to manage it. The Hon'ble Apex court has held as under :-

> *"16. The Court held that, with respect to the State's right to auction the property of the temple, once the land is vested with the deity/temple, the State cannot have a right to auction the property of the temple.*
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> *23. This question has already been considered by the courts in Panchamsingh [Panchamsingh v. Ramkishandas Guru Ramdas, 1971 SCC OnLine MP 26] , which has further been affirmed by Kanchaniya [Kanchaniya v. Shiv Ram, 1992 Supp (2) SCC 250] . The law is clear*

on the distinction that the Pujari is not a Kashtkar Mourushi i.e. tenant in cultivation or a government lessee or an ordinary tenant of the muafi lands but holds such land on behalf of the Aukaf Department for the purpose of management. The Pujari is only a grantee to manage the property of the deity and such grant can be reassumed if the Pujari fails to do the task assigned to him i.e. to offer prayers and manage the land. He cannot be thus treated as a Bhumiswami. The Kanchaniya [Kanchaniya v. Shiv Ram, 1992 Supp (2) SCC 250] further clarifies that the Pujari does not have any right in the land and his status is only that of a manager. Rights of pujari do not stand on the same footing as that of Kashtkar Mourushi in the ordinary sense who are entitled to all rights including the right to sell or mortgage.

24. In a judgment reported as Ramchand v. Janki Ballabhji Maharaj [Ramchand v. Janki Ballabhji Maharaj, (1969) 2 SCC 313] , it was held that if the Pujari claims proprietary rights over the property of the temple, it is an act of mismanagement and he is not fit to remain in possession or to continue as a Pujari.

25. The contrary view expressed by the High Court in Ghanshyamdas (1) [Ghanshyamdas v. State of M.P., 1995 Revenue Nirnaya (RN) 235] , Sadashiv Giri [Sadashiv Giri v. Commr., 1985 RN 317] and Shrikrishna [Shrikrishna v. State of M.P., 1995 SCC OnLine MP 161 : (2012) 4 MP LJ 466] does not lay down good law in view of binding precedent of the Division Bench of the High Court in Panchamsingh [Panchamsingh v. Ramkishandas Guru Ramdas, 1971 SCC OnLine MP 26] as also of this Court in Kanchaniya [Kanchaniya v. Shiv Ram, 1992 Supp (2) SCC 250] . All these judgments presenting a contrasting view had not noticed the said binding precedents dealing with the rights of priest under the Gwalior Act.

26. Taking into consideration the past precedents, and the fact that under the Gwalior Act, Pujari had been given the right to manage the property of the temple, it is clear that that does not elevate him to the status of Kashtkar Mourushi (tenant in cultivation).

27. The ancillary question which arises is whether the priest is Inamdar or Maufidar within the meaning of Section 158(1)(b) of the Code. Such provision contemplates that the rights of every person in respect of land held by him in the Madhya Bharat region i.e. area of erstwhile Gwalior and Holkar as a pakka tenant or as a Muafidar, Inamdar or concessional-holder shall be protected as Bhumiswami. The priest does not fall in any of the clauses as mentioned in Section 158(1)(b) of the Code. The muafi was granted to the property of temples from payment of land revenue. Such muafi was not granted to a manager. Even Inam granted by the Jagirdar or the ruler to a priest is only to manage the property of the temple and not confer ownership right on the priest. Therefore, in view of the judgment in Panchamsingh [Panchamsingh v.

Ramkishandas Guru Ramdas, 1971 SCC OnLine MP 26] and also of this Court in Kanchaniya [Kanchaniya v. Shiv Ram, 1992 Supp (2) SCC 250] , the priest cannot be treated to be either a Muafidar or Inamdar in terms of the Madhya Bharat Land Revenue and Tenancy Act, Samvat 2007 (Act 66 of 1950) or in terms of the Gwalior Act. Since the priest cannot be treated to be Bhumiswami, they have no right which could be protected under any of the provisions of the Code.

28. Another question which arises is whether the State Government by way of executive instructions can order the deletion of name of Pujari from the revenue record and/or to insert the name of a Collector as manager of the temple. In Ghanshayamdas (2) [State of M.P. v. Ghanshyamdas, 999 RN 25] , it was held that even if temple was being managed by the Pujari, his name is required to be mentioned as Pujari along with name of deity. We do not find any mandate in any of the judgments to hold that the name of Pujari or manager is required to be mentioned in the revenue record.

29. In terms of Sections 108, 109 and 110 of the Code, Rules had been framed initially as Appendix X. Form A has been prescribed as per Rule 2. Later such Rules were substituted by another Rules published on 15-5-1964 and Form I was prescribed to maintain the records of the rights. Such Rules have been further substituted on 20-12-1983, published in the Madhya Pradesh Gazette. Column 3 of such Form is to contain name and address of the occupier, whereas Column 4 is required to contain name of the tenant or sub-lessee of an occupancy tenant of the Bhumiswami. Column 12 is meant for remarks. The relevant Rules read as under:

Part II — Khasra

"6. The Patwari shall prepare each agricultural year a khasra for each village that has been completely surveyed in his circle in Form I.

7. The khasra shall be written up in the field by the Patwari after local enquiry and actual inspections. A separate entry shall be made for every plot, and every plot, whether cultivated or not shall be entered:

Provided that small baris situated within the village side and included in the village abadi plot, shall not be shown separately but included in the abadi area.

8. Entries shall be made by the Patwari according to facts found by him during local inspection.

9. (a) A fresh volume of the khasra shall be prepared every fifth year, in Form I. The Patwari shall enter each agricultural year the changes that have occurred in the columns provided for the purpose:

Provided that the Collector in his discretion may order a fresh volume of the khasra in any village to be prepared at an interval shorter than five years.

(b) The Collector shall prepare a roster and arrange the preparation of

the first Khasra after settlement, so that the preparation of all the khasras in a circle shall not fall due in one and the same year."

30. In the ownership column, the name of the deity alone is required to be mentioned, as the deity being a juristic person is the owner of the land. The occupation of the land is also by the deity which is carried out by the servant or the managers on behalf of the deity. Therefore, the name of the manager or that of the priest is not required to be mentioned in the column of occupier as well. In Ghanshayamdas (2) [State of M.P. v. Ghanshyamdas, 999 RN 25] , it was held that if the name of the Pujari is recorded in Column No. 12 i.e. column of remarks, it will not affect the rights of the Pujari so long as he is performing his functions properly and cultivating the land or getting the land cultivated through servants. Therefore, the name of the Pujari cannot be mandated to be recorded either in the column of ownership or occupancy but may be recorded in the remarks column.

31. No rule has been brought to the notice that the name of the manager has to be recorded in the land records. In the absence of any prohibition either in the statute or in the rules, the executive instruction can be issued to supplement the statute and the rules framed thereunder. Such instructions do not contravene any of the provisions of the Code or the rules. Therefore, they cannot be said to be illegal or in excess of the authority vested in the State Government."

7. The Hon'ble Apex Court in the case of ***Sri Ganapathi Dev Temple Trust v. Balakrishna Bhat,*** **(2019) 9 SCC 495** has held as under :-

"12. The suit property admittedly belongs to the appellant Temple. It is also not disputed that Respondent 1(b) and his predecessors were the archaks of the temple. Needless to say, it is the bounden duty of the archak to protect the temple property, and they cannot usurp such property for their own gains. It is relevant in this regard to refer to the judgment of this Court in Bishwanath v. Radha Ballabhji [Bishwanath v. Radha Ballabhji, (1967) 2 SCR 618 : AIR 1967 SC 1044] : (AIR p. 1047, paras 9-11)

> *"9. Three legal concepts are well settled: (1) an idol of a Hindu temple is a juridical person; (2) when there is a Shebait, ordinarily no person other than the Shebait can represent the idol; and (3) worshippers of an idol are its beneficiaries, though only in a spiritual sense.*
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> *10. The question, is, can such a person represent the idol when the Shebait acts adversely to its interest and fails to take action to safeguard its interest. On principle we do not see any justification for denying such a right to the*

worshipper. An idol is in the position of a minor; when the person representing it leaves it in the lurch, a person interested in the worship of the idol can certainly be clothed with an ad hoc power of representation to protect its interest.

11. … B.K. Mukherjea in his book The Hindu Law of Religious and Charitable Trust, 2nd Edn., summarises the legal position by way of the following propositions, among others, at p. 249:

> *'(1) An idol is a juristic person in whom the title to the properties of the endowment vests. But it is only in an ideal sense that the idol is the owner. It has to act through human agency, and that agent is the Shebait, who is, in law, the person entitled to take proceedings on its behalf. The personality of the idol might therefore be said, to be merged in that of the Shebait.*
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> *(2) Where, however, the Shebait refuses to act for the idol, or where the suit is to challenge the act of the Shebait himself as prejudicial to the interests of the idol, then there must be some other agency which must have the right to act for the idol. The law accordingly recognises a right in persons interested in the endowment to take proceedings on behalf of the idol.*
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> *This view is justified by reason as well as by decisions.'*

(emphasis supplied)

Therefore, it is well-settled that the deity in a Hindu temple is deemed to be a minor, and the Shebait, archaka, etc. or the person functioning as manager/trustee of such temple acts as the guardian of the idol and conducts all transactions on its behalf. However, the shebait or archaka is obligated to act solely for the idol's benefit. In Radha Ballabhji [Bishwanath v. Radha Ballabhji, (1967) 2 SCR 618 : AIR 1967 SC 1044] , this Court affirmed the lower courts' finding that a sale made by the manager of the deity to a third party, which was not for the necessity of the benefit of the idol, would not be binding on the deity, and worshippers or other parties who had been assisting in the management of the temple could apply to have such a sale set aside."

8. From the perusal of the impugned orders and the record annexed with the petition and return, it is transpired that the land was initially in the year 1955-56 recorded as Shri Shankarji Ka Chabutra Devi Ki Madiya, Jhaudas S/o Manrakhan Tiwari. That shows that the land in question is

attached to the Deity. The petitioner has submitted that the name of the collector as entered by the impugned order be removed and land be recorded in the name of petitioner, as it is a private land and it was never attached to the Deity. The said question cannot be decided under writ jurisdiction enshrined under Article 226 of the Constitution of India. The said disputed question can be only decided by the civil court by filing a suit for declaration of title.

9. As it is apparent from the record that the land was recorded in the name of Deity, therefore, this Court in the case of W.P.No.9139/2011 passed an order in similar set of facts, wherein management of private temple was given to a Committee approved by the State and has held as under:-

> *"8. A suit should be filed by worshipper or person interested in the temple/deity in absence of shebait/Pujari. Appointment of Pujari by the State is only in cases when temple is recorded as Govt. temple or registered in the Aukaf Department. In private temples, Govt. has no role to play. Any land attached to private temple, name of Collector or Pujari as Manager or Trustee is not required to be recorded in revenue entry. It is to be mentioned in the name of deity. If such property or temple is mismanaged then any person interested in temple or deity, who may or may not be worshipper, can institute a suit on behalf of deity as next friend. In cases of illegal encroachments over the land of the deity, proceedings by next friend as prescribed under the M.P.L.R.C., for removal of encroachment can be instituted for which competent authority should dispose of such matter on priority basis. If the deity is placed/installed in a private house or property/ land, then the occupier / caretaker of temple or the person who has settled the land/property, which includes its LRs also should be given due preference in management of the temple and property attached to the deity. Thus, in the light of judgment passed by Hon'ble Apex court in the case of* ***Pujari Utthan Evam Kalyan Samiti (supra)****, the name of the Collector/Pujari cannot be entered into revenue records in case of private temples and State has no role to play in the management of private temples.*
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> *9. In the present case, taking into consideration the fact that the*

deity is treated to be minor, however, a juristic person, the property attached to the temple should not be mismanaged or usurp by the person under whose control the affairs of the deity is managed and applying the principles of law laid down by Hon'ble Apex court in the case of Pujari Utthan Evam Kalyan Samiti (supra) and Balakrishna Bhat (supra), this petition is disposed of with following directions :-

i) The Chief Secretary of the State is directed to implement directions issued by the Hon'ble Apex court in the case of State of Madhya Pradesh Vs. Pujari Utthan Evam Kalyan Samiti, (2021) 10 SCC 222 by issuing instructions to all the Collectors of the Districts of M.P.

ii) All the Collectors are directed to examine status of temples as of public or private strictly in accordance with the law laid down by the Hon'ble Apex Court in the case of Pujari Utthan Evam Kalyan Samiti (supra) and conduct an enquiry as and when dispute arises.

iii) Respondent no.1 is directed to examine the dispute raised by the petitioner in the light of above direction and examine that temple is private or not within a period of three months from the date of production of certified copy of this order.

10. With the aforesaid direction, this petition is disposed of."

10. In the present case, taking into consideration the fact that the deity is treated to be minor, however, a juristic person, the property attached to the temple should not be mismanaged or usurped by the person under whose control the affairs of the deity is managed and applying the principles of law laid down by Hon'ble Apex court in the case of Pujari Utthan Evam Kalyan Samiti (supra) and Balakrishna Bhat (supra), the impugned orders - dated 31.5.2005 passed by the Tehsildar, Jabalpur for rectification of the revenue record (Annexure P/2), dated 14.3.2006 passed by the Collector, Jabalpur in Revenue Case No.63 B 121/2005-06 (Annexure P/3), dated 12.11.2007 passed by the Additional Commissioner, Jabalpur in Appeal No.91/B-121/07-08 (Annexure P/4), and dated 29.6.2010 passed by the Revenue Board, Gwalior in Revision Case No.2006-PBR/2007 (Annexure P/5) are

quashed. The Respondent no.2/Collector, Jabalpur is directed to examine the dispute raised by the petitioner in the light of above direction and examine that temple is private or not within a period of three months from the date of production of certified copy of this order, if it is found that land was recorded in the name of temple or the Deity than name of the Deity alone be recorded as Bhumiswami. The land attached to Deity in no manner be transferred to any party. The land be used by the manager/pujari/caretaker for the maintenance and welfare of the Deity/temple.

11. With the aforesaid direction, this petition is disposed of.

(DEEPAK KHOT)
JUDGE

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