

CIRCULAR No.76

SUBJECT : Temple cases – Evidence of non-devotees regarding public user – Its evidentiary value – correct practice.

In a recent appeal from the Belgaum Region, the disputed point was whether a certain temple was the private property of the appellant or a public trust within the meaning of section 2(13) read with section 2(17) of the Bombay Public Trusts Act, 1950. The evidence in the case consisted of the Inspector, who had made a local inquiry and two other witnesses, who, though not devotees of the temple, deposed to its public user. It was argued that the evidence of the Inspector was of no use as he had no personal knowledge and the other two witnesses were incompetent to give evidence as they were not devotees of the temple. The point was disposed of as follows :

“It is true that the only two witnesses examined in the case are Lingayats who were not the devotees of the temple. It would no doubt have been better if some devotees had been examined instead of them; but, I am not prepared to hold that they are incompetent to give evidence in the case simply because they are not the devotees of the temple. Even a person who is not a devotee can have personal knowledge whether the members of the public visit a temple or not.”

2. The Deputy and Assistant Charity Commissioner are requested in future to see that whenever question of public user arises, evidence is as far as possible recorded of the devotees of the temple concerned. The same principle may be extended to similar institutions of other religions or sects of region, e.g. mosques, agyaries, churches of various denominations, Lingayat Maths, etc. Similar instructions should be given to the Inspectors when they are asked to make local inquiries in such cases.

Dated : 24th September, 1954

D.R.PRADHAN
Charity Commissioner, Bombay