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## PERSONHOOD BEYOND THE HUMAN: THE LEGAL STATUS OF HINDU IDOLS IN INDIAN JURISPRUDENCE

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### ABSTRACT

Hindu idols have long been recognised as juristic persons by the Indian courts, which have allowed them to own property, accept offerings, and sue and be sued. Although this doctrine has been essential in safeguarding religious endowments and managing temples, it has raised serious jurisprudential issues regarding the definition of legal personality, the extent of rights enforceable, and the role of the State in matters of religion. The lack of clarity in the doctrine of the theoretical foundation and practical ramifications of attributing legal personhood to non-human religious entities is the main issue of this paper. This paper seeks to review the evolution of the juristic personality of Hindu idols in Indian law, to evaluate the relevance of leading theories of legal personality, and to examine the legal implications of granting idols rights in a contemporary constitutional context. The study uses a doctrinal approach, relying on landmark cases of the Privy Council, other High Courts and the Supreme Court of India, as well as the writings of jurists and commentators. The research depicts that the Indian courts have long accepted the status of idols as juristic persons as a legal means of protecting temple property and fiduciary responsibility of *shebait*s. It also discusses that the judiciary has deliberately eschewed strict adherence to any single theory of jurisprudence, instead following a pragmatic, context-sensitive approach grounded in religious practice and the necessity of law. However, reliance on human agency to enforce individual rights raises issues of mismanagement, taxation, and conflicts of interest. The paper concludes that the juristic personality of Hindu idols is a unique contribution of Indian jurisprudence, as it is a regulatory mechanism rather than a theoretical construct. Although helpful in conserving religious endowments, the doctrine must be judicially balanced to avoid doctrinal inconsistency and other negative legal implications.

**Keywords:** Idols, Juristic person, Property Rights, *Shebait*, Temple Assets.

## 1.1 Introduction

The understanding of persons has not remained static.<sup>1</sup> The last 150 years have seen a significant transformation in the concept and definition of a ‘person’ in law, moving beyond the traditional understanding of personhood as confined to natural human beings. This significant shift is reflected in the Hon’ble Supreme Court of India's multiple landmark rulings, in which the Court has expanded the definition of ‘person’ in various creative ways. From its early development, the law has recognised that certain non-human entities require legal status to function effectively within the legal system and are also capable of having a will and mind of their own.<sup>2</sup> As a result, juristic personality has been extended to corporations, institutions, and, in a distinctive departure from conventional legal theory, to religious idols. This judicial expansion also finds statutory support in Section 3(42) of the General Clauses Act, 1897,<sup>3</sup> which defines a ‘person’ to include any company, association, or body of individuals, whether incorporated or not.

Jurists have propounded various theories, such as the Fiction theory, the Realist theory and the Purpose theory,<sup>4</sup> to understand how an entity, though lacking natural personhood, is nevertheless vested with the legal status and incidents of a juristic or artificial person. Indian courts applying these theories have consistently held that a consecrated idol is not treated as a mere symbol or object of worship, but is recognised in law as a juristic person with the capacity to hold property, receive offerings, and participate in legal proceedings through a *shebait* or trustee.<sup>5</sup> This legal construct primarily emerged to preserve temple endowments and ensure the uninterrupted management of religious property, especially in cases where no identifiable individual was entitled to assert a personal claim.<sup>6</sup> However, several crucial conceptual issues remain unanswered. Even where such theories are sought to be applied, jurists disagree about their precise application,<sup>7</sup> which raises various jurisprudential and complex legal issues.

The attribution of rights to Hindu idols marks a decisive moment where Indian law moves beyond abstract recognition of juristic personality and confronts its functional consequences.

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<sup>1</sup> Martin Wolff, *On the Nature of Legal Persons*, 56 Law Quarterly Rev. 494 (1938).

<sup>2</sup> P.J. Fitzgerald, *Salmond on Jurisprudence* 298 (12<sup>th</sup> edn., 1966, Indian Reprint.)

<sup>3</sup> General Clauses Act, No. 10 of 1897, § 3(42) (Ind.)

<sup>4</sup> Salmond on Jurisprudence, *supra* note 2, at 305–308 (12th ed. 1966).

<sup>5</sup> M.L. Hanumantha Rao v. Sri Sai Baba, Represented by Its Comm., (2010) 8 SCC 473 (India).

<sup>6</sup> Rahul Govind, *On the Deity as Juristic Personality: The Religious, The Secular and The Nation in the Ayodhya Dispute and the Ayodhya Judgments (2010 and 2019)*, 33 Nat'l L. Sch. India Rev. 159 (2021).

<sup>7</sup> Salmond on Jurisprudence, *supra* note 2, at 305–316, 328–330 (12th ed. 1966).

Legal personality, if it is to have any substantive meaning, must necessarily be accompanied by enforceable rights; otherwise, it remains a hollow doctrinal assertion.<sup>8</sup> In the context of Hindu religious endowments, the recognition of idols as juristic persons operates as a legal device to insulate sacred property from human appropriation and to impose fiduciary discipline on those entrusted with its management. The law thus constructs a carefully calibrated framework in which ownership is vested in a non-human entity. At the same time, control and administration are mediated through human agencies subject to judicial scrutiny. This framework exposes inherent tensions between ancient religious institutions and modern legal mechanisms, particularly when questions of management, litigation, and taxation arise.<sup>9</sup> Examining the rights of idols, therefore, reveals not merely the scope of their legal personality but the deeper jurisprudential challenge of reconciling faith-based institutions with contemporary notions of accountability, property, and procedural justice.

## 1.2 Jurisprudential Theories Governing the Attribution of Juristic Personality to Hindu Idols

### 1.2.1 Analysing the Concept of Juristic or Legal Personality

Max Radin, a famous scholar and philosopher, in his work *The Endless Problem of Corporate Personality*, stated that “person” means a human being, but, as a technical term in law, “person” could, it was insisted, not refer to a human being but to a group of legal relationships.<sup>10</sup> Moreover, it is vehemently submitted, in favour of Max Radin, that the words “juristic person” connote recognition of an entity to be a person in law, which otherwise it is not.<sup>11</sup> Furthermore, the famous philosopher Salmond, in his influential and groundbreaking work *Jurisprudence*, also holds a similar view, noting that a legal or juristic “person” is any subject matter other than a human being to which law attributes personality.<sup>12</sup> A similar position is advanced by Hans Kelsen, who, through his work, *Pure Theory of Law*, conceptualises legal personality as a normative construct, an artificial point of imputation for rights and duties rather than a natural or metaphysical reality.<sup>13</sup> Therefore, it logically follows from these theoretical positions of the philosophers that a “person” in law is not defined by physical or human existence, but by its

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<sup>8</sup> Visa Kurki, *Legal Personhood*, at 51 (Cambridge Univ. Press 2019).

<sup>9</sup> S.R. Baj, *Juristic Personality of An Idol in Hindu Legal Philosophy*, 3 Jaipur L. Journ. 229 (1963).

<sup>10</sup> Max Radin, *The Endless Problem of Corporate Personality*, 32 Colum L. Rev. 643, 647 (1932).

<sup>11</sup> Roscoe Pound, *Jurisprudence* 192–93 (West Pub. Co. 1959).

<sup>12</sup> J.W. Salmond, *Jurisprudence* 318 (12th ed. 1966).

<sup>13</sup> Hans Kelsen, *Pure Theory of Law* 93–95 (Max Knight trans., Univ. of Cal. Press 1967).

status as a juridical subject to whom the legal system attributes rights and duties.<sup>14</sup> It is only in this respect that persons possess juridical significance, and this is the exclusive point of view from which personality receives legal recognition.<sup>15</sup>

### 1.2.2 Assessing the Applicability of Juristic Personality Theories to Hindu Idols

The role of a legal theory is to explore the institutions of legal systems and understand the manifold practical situations and problems that arise in them.<sup>16</sup> Viewed through the prism of legal theories, the following analysis seeks to examine and understand the jural relations that characterise the institution of the Hindu idol. The Courts have, however, refused to commit themselves to any single theory about the nature of legal personality.<sup>17</sup> The core reason behind the Courts' refusal is that no single theory is capable of solving the problems of personality fully. Further, one plausible reason for this gap between theory and practice is that theorists have been more engaged with either a philosophical explanation of legal personality or with fitting it into a political ideology, rather than focusing on real-life problems.<sup>18</sup>

The theories of legal personality include the Fiction theory, the Realist (or Organic or Real Entity) theory and the Purpose (or bracket) theory.<sup>19</sup> However, to analyse the applicability of Juristic personality theories to Hindu Idols, only the Fiction and Realist theories will be considered. These two theories will be applied to determine whether they conform to the principles or concepts laid down by the Privy Council in its landmark ruling in *Pramatha Nath Mullick v. Pradyumna Kumar Mullick*.<sup>20</sup>

#### A. The Fiction Theory

The Fiction theory was first illustrated by the famous scholar and jurist Savigny, and counts Salmond among its principal supporters. The Fiction theory holds that the legal personalities of entities other than human beings are the result of fiction. It states that a personality is attached to groups and institutions by pure legal fiction.<sup>21</sup> As a “real” personality can attach to

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<sup>14</sup> Wesley Newcomb Hohfeld & Walter Wheeler Cook, *Fundamental Legal Conceptions as Applied in Judicial Reasoning* 36–38 (Yale Univ. Press 1964).

<sup>15</sup> Salmond on Jurisprudence, *supra* note 2, at 299, 306 (12th ed. 1966).

<sup>16</sup> W. Friedmann, *Legal Theory* 572 (5<sup>th</sup> edn., 1967, 1999 Indian Reprint)

<sup>17</sup> Kartick Maheshwari & Vishnu Vardhan Shankar, *Stone Gods and Earthly Interests: The Jural Relations and Consequences of Attributing Legal Personality to Hindu Idols*, 16 *Nat'l L. Sch. India Rev.* 1, 7 (2004).

<sup>18</sup> *Id.* at 7.

<sup>19</sup> Salmond on Jurisprudence, *supra* note 2, at 305–308 (12th ed. 1966).

<sup>20</sup> *Pramatha Nath Mullick v. Pradyumna Kumar Mullick*, AIR 1925 PC 139.

<sup>21</sup> Friedrich Carl von Savigny, *System of the Modern Roman Law* 309–10 (William Holloway trans., 1867).

individuals alone, this personality is distinct from the personality of the individual beings. Accordingly, States, Corporations and Institutions cannot be the subject of rights and persons, but are treated as if they were persons.<sup>22</sup> Hence, the fiction theory, in a nutshell, asserts that some groups and institutions are treated as if they were persons and do not feel it necessary to explain why. However, the value of the fiction theory lies in its starting from a natural, extra-judicial conception of personality, grounded in ethics and religion. It then further states that certain groups and institutions determined by law, though lacking in the supreme quality, i.e., human dignity, are nevertheless treated by law as if they were human beings.<sup>23</sup>

Furthermore, when the Fiction theory is applied to the Hindu Idol, it becomes clear that the idol qualifies as a legal or juristic person solely because the law accords it that status. In *Pramatha Nath Mullick's* case, Lord Shaw remitted the matter to the lower court with directions that the idol be represented through a disinterested next friend. He allowed the deity to present its views to the court regarding the proposed changes to its customary place of worship during one of the rotational turns of a particular branch of the family.<sup>24</sup> Observing this, the famous jurist and scholar P.W. Duff, a proponent of the fiction theory, remarked that “*it is hard to doubt that there is fiction in the air.*”<sup>25</sup> Moreover, to support his claim, he submits that:

“...Lord Shaw did not believe that the Idol could express its will or have any will to express; therefore, the law or the court must appoint someone whose declarations of the Idol's will should be deemed to be the Idol's own declaration...”<sup>26</sup>

Additionally, in support of the Fiction theory, it is pertinent to mention the Privy Council's ruling in an earlier case where the Court affirmed the juristic personality of a Hindu Idol, observing that property is held by the idol only in an ideal fictitious sense and that judicial practice in this regard has not been uniform.<sup>27</sup> Yet, despite the elevated language Lord Hobhouse used to describe the idol's personality, the judgment acknowledged that the title could be acquired against the idol by adverse possession, a conclusion that exposes the conceptual strain of treating a divinity as a juridical subject.<sup>28</sup> This anomaly has been sharply

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<sup>22</sup> Friedmann, *supra* note 16, at 556–57.

<sup>23</sup> Wolff, *supra* note 1, at 507.

<sup>24</sup> Mullick, *supra* note 20, at 261.

<sup>25</sup> P.W. Duff, *The Personality of an Idol*, 3 Camb. L. Journ. 42, 45 (1927).

<sup>26</sup> P.W. Duff, *Personality in Roman Private Law* 212 (1938).

<sup>27</sup> *Gossamee Sree Greedharreejee v. Rumanlolljee Gossamee and Ors.*, (1889-89) 16 Ind. App. 137 (PC).

<sup>28</sup> S.G Vesey Fitzgerald, *Idolon Fori*, 41 Law Quarterly Rev. 422 (1925).

criticised, with Vesey-Fitzgerald arguing that if the fiction theory is taken to its logical extreme, an idol is no less a legal person than any constitutional office-holder, underscoring the inherent artificiality of such personhood.<sup>29</sup>

The fiction theory treats juristic persons as purely artificial entities, lacking will, mind, or existence beyond what the law confers.<sup>30</sup> In contrast, a Hindu idol, despite being a juristic person, can both sue and be sued and is recognised as possessing a will.<sup>31</sup> articulated through its *shebait* or, where necessary, a court-appointed next friend. These features depart significantly from the premises of the fiction theory, indicating that, while the theory may partially explain idol personality, it fails to account for the juristic status of a Hindu idol fully.<sup>32</sup>

### B. The Realist or Organism Theory

The Realist Theory was first propounded by Gierke and his prominent followers, including Maitland and Geldart.<sup>33</sup> As opposed to the Fiction theory, the realist theory assumes that the subject of rights need not be a human being, and that every being that possesses a will and a life of its own may be a subject of rights. States, corporations and foundations are beings just as alive and capable of having a will as human beings.<sup>34</sup> This theory further holds that the emergent personality of groups must be recognised by law as a real entity, just as real as the individual human personality, and that its aims include preserving the autonomy of existing groups within the State.<sup>35</sup> Furthermore, this theory allows any group within the State, be it an educational or charitable foundation, a church, a profit-making company, or even a trade union, to claim legal recognition of its personality without requiring official recognition of legal personality.<sup>36</sup>

This theory characterises the corporate body as a *reale Verbandsperson*, i.e., it does not owe its personality to state recognition; it is not a fictitious legal creation, nor does it personally reside in its component members or beneficiaries.<sup>37</sup> This means that a group has a real will, a real

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<sup>29</sup> *Id.* at 422.

<sup>30</sup> *Stepney Corpn. v. Osofsky*, (1937) 3 E.R. 289, 291 (C.A.); *Assistant Commissioner v. Velliappa Textiles*, (2003) 11 SCC 405.

<sup>31</sup> *Citizen's Life Assurance v. Brown*, (1904) A.C. 426.

<sup>32</sup> *Maheshwari & Shankar*, *supra* note 17, at 9.

<sup>33</sup> W.M. Geldart, *Legal Personality*, 27 *Law Quarterly Rev.* 90 (1911).

<sup>34</sup> Wolff, *supra* note 1, at 498.

<sup>35</sup> Pound, *supra* note 11, at 241-242.

<sup>36</sup> Dennis Lloyd, *The Idea of Law* 302 (1964).

<sup>37</sup> Friedmann, *supra* note 16, at 559.

mind and real power of action. A corporation has all the characteristics of a natural person, and its actions are its own. It is just that the corporate will of the corporation expresses itself through the acts of its members, servants, and agents, who are essentially its organs, which is why this theory is also called the Organism theory.<sup>38</sup>

Furthermore, it is pertinent to note that the realist theory most convincingly accounts for the juristic and legal personality of a Hindu idol, as the endower and worshippers regard it as a real and living embodiment of the deity.<sup>39</sup> The idol is recognised as possessing a will, which is expressed through its *shebait*, who may sue or be sued on its behalf and manage, alienate, or encumber its property in the idol's best interests.<sup>40</sup> Its personality flows from the collective faith of devotees, who revere the deity and are treated as the actual beneficiaries, an essential premise of the realist theory. Significantly, juristic personality arises from this shared belief rather than formal state recognition, a position acknowledged by the Supreme Court, which observed that devotees' faith in a superhuman power is sufficient to sustain such personhood.<sup>41</sup>

### 1.3 Emergence of Idol's Legal Personhood: Evolution and Judicial Recognition

The concept of legal personality for Idols in India primarily arose during the pre-independence era, i.e., during the late 19<sup>th</sup> Century. This principle or concept was solidified, and the Privy Council, along with other High Courts in India, then recognised Hindu Idols as 'juristic persons,' in various landmark judgments, which the Hon'ble Supreme Court of India still cites as reliable precedents.

It is pertinent to understand that the objective behind the recognition of Idols as 'juristic persons' was that the deity represented by the idol was the legal owner of the temple, which included the wealth of the temple, and the priest, also known as '*shebait*', acted as a trustee on behalf of the deity. This was laid down in the case of *Maharanee Shbessouree Debia v. Mothooranath Acharjo*,<sup>42</sup> where a civil lawsuit was filed against the *shebait* of a 'talook' (which had been set apart for the service of a god) to confirm title to certain 'jummas' and to recover and possess certain lands that were part of the 'talook' under the claim that the rights in them had been transferred to him, the case concerned ownership and management of the temple and

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<sup>38</sup> H. L. Bolton (Engineering) Co. Ltd v. TJ Graham & Sons Ltd., (1956) 3 ALL E.R. 624, 360 (C.A.).

<sup>39</sup> A.S. Nataraja Ayyar, *The Juristic Personality of Deities in Hindu Law*, 3 Vyavahara Nirnaya 101, 172 (1954).

<sup>40</sup> Pramod Nath Ray v. Pooran Chandra Ray, (1908) ILR 35 Cal 691.

<sup>41</sup> Ram Jankijee Deity v. State of Bihar, (1999) 5 SCC 50, p. 59.

<sup>42</sup> *Maharanee Shibessouree Debia v. Mothooranath Acharjo*, (1869-70) 13 Moo IA, p. 270.

its property, highlighting the legal concept of juristic personality for idols.<sup>43</sup> The Privy Council further held that the land was solely intended for a god; therefore, it is the god who owns it, not anyone else, including the *shabait* or the trustee. The *shebait*, or trustee, is simply the manager and has no rights of alienation over the property or the right to impose perpetual rents on the land belonging to the deity.

Furthermore, in *Prosunno Kumari Debya v. Golab Chand Baboo*,<sup>44</sup> the Privy Council held that even though the deity-owned property is inalienable in general circumstances, a *shebait* or a trustee can incur debts for the maintenance of the idol, to upkeep the temple or for legal defence and such debts which are taken for such purposes were necessary and justified will be binding on succeeding *shebait*s or trustees as managers of the idol or deity's property.

In the landmark judgement of *Manohar Ganesh Tambekar v. Lakshmiram Govindram*,<sup>45</sup> which was later reiterated and relied upon by the Supreme Court of India in the Ayodhya case, the Bombay High Court in this case played a crucial role in upholding the rights of the deity. It unequivocally held that the offerings made to a Hindu Idol are not the personal property of the 'shevaks' but are dedicated to the idol wholly, therefore, recognising the Idol as a juristic person capable of owning property. It is pertinent to note that this ruling, which emphasised and highlighted the proper management of temple offerings made by the devotees of the deity represented by the Idol, is a testament to the court's respect for religious traditions. The court reiterated the principle that the idol is a juristic person and ordered the recovery of funds misused. Furthermore, this case underscored that devotees view the idol as a living person, reinforcing the deity's legal personality and the shevak's duty to ensure proper worship and the maintenance of the temple.

Furthermore, in *Vidyapurna Tirtha Swami v. Vidyavidhi Tirtha Swami*,<sup>46</sup> the Madras High Court stated that a temple trustee was only a custodian entrusted with the management of temple funds for authorised purposes, thus reinforcing the idol's legal personality. To support this, the court referred to international religious concepts considered applicable. However, the Privy Council later criticised such an approach in *Vidya Varuthi Thirtha Swamigal v. Balusami Ayyar*,<sup>47</sup> arguing that foreign analogies should not be used to interpret Hindu legal traditions

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<sup>43</sup> *Id.* p. 272.

<sup>44</sup> *Prosunno Kumari Debya & Anr. v. Golab Chand Baboo*, (1874-75) 2 IA 145.

<sup>45</sup> *Manohar Ganesh Tambekar & Ors. v. Lakshmiram Govindram & Ors.*, ILR (1888) 12 Bom, p. 247.

<sup>46</sup> *Vidyapurna Tirtha Swami v. Vidyavidhi Tirtha Swami*, ILR (1904) 27 Mad, p. 435.

<sup>47</sup> *Vidya Varuthi Tirtha Swamigal v. Balusami Ayyar*, AIR 1922 PC 123; (1922) 15 LW 78 (PC).



unless they are directly relevant. Still, the court upheld the principle that the Idol is a legal personality.

Moreover, the judicial pronouncements made after independence have continued to evolve and enshrine the idol's status as a juristic person, while also addressing issues of constitution and administration. In *Deoki Nandan v. Murlidhar*,<sup>48</sup> the Hon'ble Supreme Court of India clearly recognised that a Hindu idol is a juristic person who can possess property and use a *shebait* to assert its legal rights. However, while the Court stated that the endowment property belongs to the deity, the idol is merely the theoretical or legal owner, not the actual beneficiary of the endowment. The actual beneficiaries are the worshippers, for whose spiritual benefit the endowment is created, with the *shebait* serving in a fiduciary capacity under strict duties of care and accountability.

Lastly, the very recent ruling of the Hon'ble Supreme Court of India in the case of *M. Siddiq (Deceased) Through Legal Representatives v. Mahant Suresh and Others*,<sup>49</sup> (hereinafter referred to as the *Ram Janmabhoomi case*), recognised "Shri Ram Lalla Virajman" as a juristic person capable of owning property and enforcing legal rights, thereby affirming that a deity can hold title to land dedicated for religious purposes through a representative. The judgment emphasised that this doctrinal recognition of juristic personality is a legal fiction devised to protect the devotees' faith and the sanctity of dedicated property, enabling judicial protection and administration of temple lands.

The foregoing analysis refers only to a few illustrative judicial pronouncements; however, Indian jurisprudence contains a rich and consistent body of case law across different High Courts and the Supreme Court that repeatedly affirms the juristic personality of Hindu idols and reinforces the principles governing religious endowments, far beyond the limited decisions examined herein.

#### 1.4 Rights of Idols

Once a Hindu idol is recognised as a juristic person, it is vested with several legal rights

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<sup>48</sup> *Deoki Nandan v. Murlidhar*, AIR 1957 SC 133.

<sup>49</sup> *M. Siddiq (Deceased) Through Legal Representatives v. Mahant Suresh and Others*, 2019 SCC OnLine SC 1440.

intended to protect religious institutions and endowments.<sup>50</sup> Among these, certain rights play a foundational role in giving practical effect to the idol's legal personality. Accordingly, the present discussion focuses on the idol's right to hold property and its corresponding right to sue and be sued.

### A. Right to hold property

Through various judgments, the Privy Council, the High Courts and the Supreme Courts of India have emphasised the Right of the Idol to hold property. One of the most significant and vital cases in recent times is the *Ram Janmabhoomi case*, also known as the *Ayodhya case*. In this case, the Supreme Court of India further reaffirmed the long-standing legal principle that a Hindu idol is a juristic person with respect to property holdings, a unique concept present only in Indian law.<sup>51</sup> This means that the idol, acting through its *shebait*, manager, and custodian, can hold property. In the abovementioned case, Shri Ram Lalla Virajman received legal recognition as a juristic entity and was thus considered a valid litigant. It should clarify that an idol, as a juristic person, can hold property only in its ideal sinecure- the actual management and administration of such property being vested in a *shebait* or custodian or the trust looking to the deity's interests.<sup>52</sup> The Supreme Court finally ruled in favour of the disputed land at Ayodhya, granting legal ownership of the property to the deity represented by the idol, i.e., Shri Ram Lalla Virajman, thereby recognising the deity's ownership over the property.<sup>53</sup> Moreover, a trust is to be formed to manage the land and construct the Ram temple, thereby elaborating on the principle that an idol can be considered a juristic person, thereby allowing it to possess and hold rights over immovable property through a dedicated legal mechanism.

### B. Right to sue and to be sued

The Hon'ble Supreme Court of India, through various judgements, have acknowledged and emphasised the idol's right to sue and be sued as a Juristic Person (through the *shebait* or the trustee).<sup>54</sup> This right to sue did not emerge as an abstract theological construct. Still, it

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<sup>50</sup> Anujay Shrivastava & Yashowardhan Tiwari, *Understanding the misunderstood: Mapping the scope of a Deity's Rights in India*, 10(1) WBNUJS Int'l J. L. & Pol'y Rev. 1 (2021).

<sup>51</sup> Anjan Saha, *Almighty as Litigant: Ram Janmabhoomi Case and the Concept of Juristic Personhood of Temple Deities in India*, 8(2) Int'l J. Eng. Literature & Soc. Sci. 136, 138–39 (2023).

<sup>52</sup> Bolla Madhavi & Konda Nageswar Rao, *Divine Justice: Ram Janmabhoomi Case and the Legal Persona of Temple Deities in India*, 6(2) Int'l J. Res. Eng. 33, 34 (2024).

<sup>53</sup> N.R. Chakrabarti, *Contemporary Problems in Hindu Religious Endowments* (Ph.D. dissertation, SOAS Univ. of London 1982)

<sup>54</sup> Shriomani Gurudwara Parbandhak Committee vs Som Nath and Ors., AIR 2000 SC 1421.

developed as a necessary legal consequence of recognising the idol as a juristic person capable of owning property. The reason is that during the early adjudication of Hindu religious endowments, it was revealed that mere acknowledgement of ownership of an idol would be ineffective unless accompanied by the procedural capacity to enforce such rights.<sup>55</sup> Courts in various judgements reasoned that proprietary rights vested in a deity would be illusory without access to judicial remedies, leading to the gradual recognition of the idol as a legal subject competent to litigate in its own name.<sup>56</sup>

This position was clearly reflected in early Privy Council decisions, which recognised that, although an idol has no physical existence, ownership of endowed property vests in the deity rather than in the human manager. The *shebait* does not own the property in a personal capacity; instead, he occupies an office that carries with it duties of management and worship.<sup>57</sup> Since the *shebait's* interest is limited and fiduciary in nature, disputes relating to idol property cannot be treated as his personal disputes. As a result, courts held that legal proceedings must be brought in the name of the idol itself, with the *shebait* acting only as its representative.<sup>58</sup>

The right gave rise to significant issues. The Courts were aware that a *shebait's* interests might conflict with those of the idol. In situations involving allegations of mismanagement or unauthorised alienation of temple property, allowing the *shebait* to represent the deity exclusively could defeat the very purpose of recognising idolatry.<sup>59</sup> To address this concern, courts permitted idols to be represented through a disinterested next friend and *guardian ad litem*.<sup>60</sup>

In recent years, the Supreme Court has reaffirmed that the idol's right to sue is a natural incident of its juristic personality. Once a deity is recognised as a legal person, it must necessarily have access to courts to safeguard its rights, subject to proper representation.<sup>61</sup> The evolution of this right thus reflects a balanced judicial approach that combines legal necessity, religious practice, and procedural fairness.

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<sup>55</sup> Shrivastava & Tiwari, *supra* note 50, at 4, 9.

<sup>56</sup> Manohar Ganesh Tambekar v. Lakhmiram Govindram, ILR (1888) 12 Bom 247

<sup>57</sup> S. Rathinam @ Kuppamuthu & Ors. v. L.S. Mariappan & Ors., AIR 2007 SC 2134.

<sup>58</sup> Mullick, *supra* note 20.

<sup>59</sup> Administrator General of Bengal v. Balkissen, ILR 51 Cal 953.

<sup>60</sup> Mullick, *supra* note 20.

<sup>61</sup> M. L. Hanumantha Rao v. Sri Sai Baba (Represented by Trustees), (1980) 2 MLJ 507.

### 1.5 The Idol as a Juristic Person, the *Shebait* and Maintaining the Debutter: The Legal Complications

Though the Supreme Court has acknowledged the juristic personality of the idol with various rights, such as the Right to hold property and the right to sue and be sued, these rights have no meaning without a *shebait*, custodian, or a trust. This exceptional concept of the idol's juristic personality has another significant practical implication for the corpus of the debutter itself. The underlying issue appears to be applying the ancient dual personality of the idol to a modern-day legal environment that may not completely grasp the special nature of the idol's personality.

It is pertinent to note that the English law of trusts is not strictly applicable to an endowment to an idol. The idol is the real owner of the property and not any beneficial owner. Furthermore, the *shebait* represents the Idol; its legal status remains unclear, since it is not the owner of the debutter and does not strictly fall into the category of a trustee. However, in view of the obligations and duties resting on him, his position is analogous to a trustee, and he would be liable for any misadministration of the property of the idol.<sup>62</sup> The *shebait* is not merely a manager, because his interest in the *shebaiti* extends beyond the office to the properties of the Idol. Therefore, the legal status of the *shebaiti* sheds light not only on the idol's legal personality but also has practical implications for the idol's properties.

The Supreme Court in *Angurbala v. Debabrata*<sup>63</sup> reiterated that the nature of the *shebait's* proprietary interest in debutter property had been clearly explained by B.K. Mukherjea, J., who observed that:

*“... through a shebait is a manager and not a trustee in the technical sense, it would be correct to describe the shabaitship as a mere office...the shebait not only has duties to discharge in connection with the endowment but he has a beneficial interest in the debutter property...in almost all... endowments the shebait has a share in the usufruct of the debutter property which depends upon the terms of the grant or upon custom or usage...even where no emoluments are attached to the office of shebait, he enjoys some sort of right*

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<sup>62</sup> Vidya Varuthi Thirtha v. Balusami Ayyar, (1920-21) 48 Ind. App. 302, 311 (P.C.). See A. Ghosh, *The Law on Endowments (Hindu & Mahomedan)* 267 (2<sup>nd</sup> edn., 1938).

<sup>63</sup> *Angurbala v. Debabrata*, AIR 1951 SC 293.

*or interest in the endowed property which partially at least has the character of a property right...both the elements of office and property are mixed up and blended together, and one of the elements cannot be detached from the other...*<sup>64</sup>

The Supreme Court, though having received various suggestions that the property aspect of the *shebait* should be changed,<sup>65</sup> has, through its judgements, stated that the *shebaiti* is not a mere office but is an amalgam of office and property.<sup>66</sup> The exact property can be gifted to another Hindu and mortgaged if required. As per B.K. Mukherjea, J.'s opinion in the aforementioned case, the interest of the *shebait* in the debutter properties is inherent in the *shebaiti* itself. It may also arise from the 'terms of the endowment, customs or usage.'

A dedication or endowment to a Hindu idol may be either absolute or partial. In the case of an absolute dedication, the endower gives up all rights in the property, whereas in a partial dedication, some rights are retained by the endower. On the death of the endower, the interest retained in the debutter passes on to his heirs. In *Pran Krishna v. Controller of Estate Duty*,<sup>67</sup> the Court held that where the deceased had retained a right capable of valuation, the right of enjoyment made the capital value of the idol's property liable to estate duty.<sup>68</sup> Although estate duty is no longer in force, the principle highlighted essential concerns. As a result, not only is the income of the idol subject to taxation under income tax laws, but due to the modern interpretation of Hindu law, where the *shebait* is recognised as having a proprietary interest, even the corpus of the idol's property may attract tax.<sup>69</sup> This approach is sound as it prevents *shebait*s from retaining substantial interests in the debutter without being taxed.

There is another critical problem regarding the juristic personality of the Hindu idol that the bench did not thoroughly examine in *Pran Krishna*. Even in cases of absolute dedication, Hindu law recognises that the *shebait's* office carries an inherent proprietary interest in the debutter. If this idea is taken to its logical end, it would mean that in every debutter the *shebait* is treated as having an interest in the entire endowed property. From the perspective of estate duty, this would be extremely harsh, since the whole debutter could be treated as passing on

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<sup>64</sup> *Id.* at 296.

<sup>65</sup> Rishindra Nath Sarkar, *Has a Sebayet or Mahant Proprietary Right in Endowment?* AIR (Journ.) 91-94 (1952)

<sup>66</sup> Shambu Charan Shukla v. Thakur Ladli Radha Chandra Madan Gopalji, AIR 1985 SC 905, 909-910; Manohar Mukherji v. Bhupendranath, (1933) 60 ILR. Cal. 452 (F.B.)

<sup>67</sup> *Pran Krishna v. Controller of Estate Duty*, AIR 1968 Cal. 496.

<sup>68</sup> J.D.M. Derrett, *The Liability of Deities to Pay Taxes*, 71 Bombay L.R. (Journ.) 43-44 (1969).

<sup>69</sup> *Id.* at 44.

the death of the *shebait* and therefore become liable to tax.<sup>70</sup> This serious consequence, arising from the modern application of the idol's juristic personality, was not clearly addressed in *Pran Krishna*.

Later decisions of the Supreme Court appear to have acknowledged this difficulty and the unfair results it could produce. To avoid such outcomes, the Court attempted to distinguish between an inherent interest attached to the office of the *shebait* and interests that the settlor expressly or impliedly reserves. It was suggested that where no such express or implied reservation exists, the endowment should not be subjected to estate duty.<sup>71</sup> In such cases, only that portion of the debutter clearly retained by the settlor would be taxable, not the entire property.

This approach seems to strike a balance between competing concerns. A strict application of the principles in *Angurbala* and *Pran Krishna* could eventually lead to the erosion of the debutter property through repeated taxation. At the same time, there are strong reasons to support a more restrained view. Equity requires that technical interpretations not defeat the settlor's intention. Any adverse impact on the idol property would also harm the interests of the Hindu religious community. Further, such consequences would be inconsistent with the historical treatment of religious endowments under Hindu law, which has generally favoured their protection. While this reconciliation may not be entirely logical, it reflects the courts' conscious choice to preserve the practical value of recognising the idol as a juristic person.

## 1.6 Conclusion

The recognition of Hindu idols as juristic persons represents one of the most distinctive and sophisticated contributions of Indian jurisprudence to the law of legal personality. Far from being a mere doctrinal curiosity, this recognition reflects the Indian legal system's capacity to mediate between metaphysical belief and juridical necessity, and to transform religious faith into a legally intelligible framework without either desacralising belief or abandoning legal rationality.<sup>72</sup> The idol's legal personality is therefore not an abstract concession to theology,

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<sup>70</sup> *Id.* at 44-45.

<sup>71</sup> *Dipti Narayan Srimani v. Controller of Estate Duty*, AIR 1988 SC 1511, 1815-1518; *Controller of Estate Duty v. Mahant Umesh Narain Puri*, (1982) 2 SCC 303, 308-309.

<sup>72</sup> Juhisha Jones AV, *From Tradition to Constitution: A Comparative analysis of the Indian Judiciary's shift in recognising Deity Personhood from Vidya Varuthi to Shri Ram Janmabhoomi*, 7 Indian J.L. & Legal Research 814 (2025).

but a carefully constructed juridical response to the practical demands of protecting religious endowments, regulating managerial power, and ensuring continuity of worship across generations.

At a deeper level, the Indian approach challenges the classical Western assumption that legal personality must be grounded either in human dignity or in state-created artificiality. The Hindu idol occupies a conceptual space that transcends this binary. Its personality is neither purely fictional nor entirely organic in the realist sense; rather, it is relational and functional, arising from the collective faith of devotees, the intention of the endower, and the law's objective of safeguarding dedicated property.<sup>73</sup> In this sense, the idol's juristic personality exemplifies a contextual theory of personhood, shaped by social practice and legal necessity rather than rigid theoretical classification. This explains why Indian courts have consistently resisted strict adherence to any single jurisprudential theory and have instead adopted a pragmatic, case-sensitive approach.

The enduring relevance of idol personhood also lies in its institutional consequences. By vesting ownership in the deity rather than in human agents, the law deliberately fragments power: proprietary rights vest in the idol, managerial authority in the *shebait*, and beneficial interest in the worshipping community.<sup>74</sup> This tripartite structure operates as an internal system of checks and balances, designed to prevent the secularisation or private appropriation of sacred property. The recognition of the idol's right to sue, particularly through a disinterested next friend, further reinforces judicial supervision as an essential safeguard against conflicts of interest and abuse of office. In this framework, juristic personality functions less as an end in itself and more as a regulatory technique that disciplines human conduct around religious institutions.

At the same time, the legal complications surrounding *shebaitship*, taxation, and debutter property reveal the limits of translating an ancient religious institution into a modern legal economy.<sup>75</sup> The courts' cautious attempts to distinguish between proprietary interests inherent in office and those expressly reserved by the settlor underscore an awareness that an uncritical application of modern fiscal principles could undermine the very foundations of religious

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<sup>73</sup> Sailesh Neelakantan & Sriram D. Hemmige, *Hindu Idols as a Juristic Person*, 5 Int'l J. L. Mgmt & Humanities (2022).

<sup>74</sup> Deepa Das Acevedo, *Deities' Rights?*, 38 J. L. & Religion 450, 461–64 (2023)

<sup>75</sup> *Commissioner of Income Tax v. Sri Jagannath Jew*, AIR 1977 SC 1424, 1427–28.

endowments.<sup>76</sup> This tension highlights a broader jurisprudential insight: legal personality, when detached from its cultural and historical context, can produce outcomes that are doctrinally consistent yet normatively unjust. The judiciary's willingness to temper logic with equity in such cases reflects a conscious effort to preserve the moral and social objectives underlying idol personhood.

Ultimately, the juristic personality of Hindu idols demonstrates that law need not be confined to a secular, individual-centric conception of personhood. Indian jurisprudence shows that legal systems can accommodate collective belief, continuity of tradition, and non-human subjects without sacrificing coherence or enforceability. The idol, as a legal person, thus stands as a reminder that personality in law is not a static concept but a flexible instrument, capable of evolving in response to cultural realities, institutional needs, and normative commitments. In preserving this delicate balance, Indian courts have not merely recognised idols as persons in law; they have reaffirmed the law's capacity to adapt itself to the plural and layered realities of the society it governs.

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<sup>76</sup> Mullick, *supra* note 20, at 145-47.