

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10494 of 1998

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1. Ghanshyam Prasad, son of late Ramchandra Prasad Sah, resident of Village Dharampur (Tajpur Road), Samastipur, District-Samastipur
 2. Shambhu Nath, son of late Ram Bhajan Pd. Sah, resident of Village-Dharampur (Tajpur Road) P.S. Samastipur, District-Samastipur
 3. Prabhu Dayal Gupta, son of late Jadunandan Prasad
 4. Ram Sevak Prasad
 5. Bhola Sah
 6. Jagannath Prasad,
 7. Janardan Prasad, petitioner nos. 4 to 7 are sons of late Bisheshwar Prasad Sah alias Janardan Pd., resident of Mohalla Gudri BaAR, Ward No.5, Police Station-Samastipur, District-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Bihar Religious Trust Board, Patna through its Chairman
3. The Chairman, Bihar Religious Trust Board, Patna.
4. The Circle Officer, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Board : Mr. Shekhar Singh, Advocate.
For the State : Mr. Sanjay Pandey, G.P.21
Mr. Nishant Kuamr Jha, Ac to GP.21

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-02-2015

No one appears on behalf of the petitioners. However, learned counsel for the Bihar Religious Trust Board and State are present. This case is being disposed of on the basis of the assistance extended by them.

In the present writ petition petitioners are challenging the order dated 16.10.1998 passed by the Chairman, Bihar Religious Trust Board, Patna (hereinafter referred to as 'the Board') by which the Board in exercise of power under Section 28(2)(h) of



the Bihar Religious Trust Act, 1950 (hereinafter referred to as 'the Act') removed the petitioners as Sevait and in exercise of power under Section 33 of the Act, the Circle Officer has been appointed as a temporary Sevait for the purposes of looking after the management of Ram Janki Mandir, Gudri Bazar, Samastipur. The order has been passed on account of the fact that petitioners have not submitted the budget as provided under the Act and on that account the Board was compelled to take action against them.

In the present writ petition a plea has been taken that the said trust has been created by one Ram Dhani Sah, father of original petitioner nos. 1 and 2 and he purchased three decimals of land, constructed Ram Janki temple over the said land. Further a plea has been taken that temple is situated within the campus of residential building of the original petitioners who are beneficiaries of the trust and public in general has no concern with the same. It has been claimed that for the purposes of religious performance and welfare of the family a Samarpannama was prepared on 12.7.19 by which Thakur Jee was installed as Ram Janki. Further claim has been made that as it is private trust the Board has no jurisdiction to remove the original petitioners from the post of Sevait.

The Board has disputed the claim of the petitioners and submitted that this Court cannot decide the issue of private trust and public trust. It can only be decided either in civil suit or under Section 28(2)(u) of the Act the Board has jurisdiction to decide the issue of status and nature of the trust.

Primarily it is a dispute is nature of trust which cannot be adjudicated by this Court while sitting in a proceeding of judicial review, it can only be decided by proper authority before the proper court.

In such view of the matter, this Court directs the petitioners to move before the civil court or file an application before the Board under Section 28(2)(u) of the Act for the purposes of deciding the nature and status of the trust. If any application is filed by any of the petitioner claiming to be private trust the Board will be obliged to decide the issue of nature and status of the trust and if the Board arrives to a finding that it is a private trust on the basis of the material supplied by them then certainly under the Act the Board will have no jurisdiction to interfere with the management of the trust. The petitioners may file an application under Section 28(2)(u) of the Act within a period of two months from today in that circumstances the Board will re-examine the materials and after hearing the parties would pass

reasoned order in accordance with Religious Trust Act. If no such application is filed the Board will be at liberty to act in accordance with law.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

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