

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10063 of 2014

=====

Narendra Kumar Choubey, son of late Sheopujan Choubey, R/o village-Samhauta, P.O. Samhauta (Kopa), P.S. Kopa, District - Saran at Chapra..

.... Petitioner/s

Versus

1. The State of Bihar.
2. The D.M. Saran at Chapra.
3. The D.D.C., Saran at Chapra.
4. The S.D.O., Manjhi at Chapra.
5. The Anchal Adhikari, Circle Officer, Manjhi at Chapra.
6. The Bihar State Regional Trust Board Patna.
7. Manju Devi (Mukhia), wife of Shambhu Sah, resident of village-Mahammdpur, P.S. Manjhi, District - Saran at Chapra.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mishra
For the Respondent-State : Mr. Ashok Priyadarshi, GA-4
For the Religious Trust Board : Mr. Shekhar Singh
For the Respondent no.7 : Mr. Dilip Kumar Jha

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 06-04-2015 Heard Mr. Anil Kumar Mishra, leaned counsel appearing on behalf of the petitioner, Mr. Shekhar Singh, learned counsel appearing for the Bihar State Religious Trust Board, learned counsel for the State and Mr. Dilip Kumar Jha, learned counsel appearing for the respondent no.7.

The petitioner is aggrieved by the ongoing construction being made at the instance of respondent no.7 who happens to be the Mukhiya of Gram Panchayat, Mahammadpur in the district of Saran. The petitioner is also aggrieved by certain constructions made by the Health Department.



According to the petitioner the land over which these illegal construction are being made, is the property of Shri Ram Janki Math, a public trust registered under the Bihar Hindu Religious Trust Act, 1950 (hereinafter referred to as 'the Act') and 'the Rules' framed thereunder.

Vide order passed on 12.2.2015 this Court while issuing notice to the private respondent who has registered appearance through counsel, required the District Magistrate to file counter affidavit and which has since been filed. The District Magistrate while admitting to the construction, has submitted that the ongoing constructions in the Rajeev Gandhi Service Centre by the Mukhiya is on the basis of an unregistered lease granted by Mahanth Awadhesh Das, on 10.1.2014. It is, however, stated that on the direction of the Circle Officer as contained in his order dated 21.2.2015 the renovation work has since been stopped.

The petitioner appears to be interested in the welfare of the trust property and is aggrieved by the action of the district authorities of intruding over the trust property. Since his representation before the Board went unnoticed and no concrete steps was taken by the Board for restraining the district authority that he has moved this Court.

I have heard learned counsel for the parties and I have perused the records.

It is not in dispute that there are constructions existing on the trust property. The issue is whether these construction made over the trust property, is with or without the sanction of the Board. The Board has not filed any affidavit so its stand is not clear. That the Board has not taken any effective steps for removal of intrusion over the trust property, is yet unexplained.

Though a property of a public trust registered under the Board is to be regulated at the discretion of the Board but there is nothing on record of the proceedings to demonstrate that the ongoing constructions have the approval of the Board. In the opinion of this Court the petitioner has raised a valid issue and which requires determination.

Section 43-D of 'the Act' enables any trustee or any two persons interested in the religious affairs of a trust to file an application before the Tribunal constituted under section 43 of 'the Act' for removal of encroachment on the trust property with the permission of the Board. The expression 'encroacher' has been explained to mean any person who unauthorizedly occupies any land, building, shop, tank and well or any other

property of the trust without the approval of the competent authorities.

The issues raised by the petitioner are issue of fact and requires determination in the light of the statutory provisions and the appropriate authority to do so, would be the Tribunal constituted under section 43 of 'the Act'.

In the circumstances, this writ petition is disposed of with the liberty to the petitioner to move the Tribunal for redressal of his grievance after seeking permission from the Board and it goes without saying that any such permission sought by the petitioner before the Board should be granted within two weeks of filing of such application. The dispute raised by the petitioner before the Tribunal shall be considered and disposed of in accordance with law and after hearing the affected parties against whom the allegations are set up, expeditiously and preferably within a period of nine months from the date of filing of such application.

Considering the nature of controversy raised let status-quo as existing today be maintained in respect of ongoing construction on the property of Shri Ram Janki Math by the Mukhiya, respondent no.7 until the disposal of the application by the Tribunal.

The District Magistrate, Saran at Chapra would ensure that no further construction takes place within the trust property until the matter is resolved by the Tribunal.

The writ petition is disposed with the observation and direction aforementioned.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--