

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21052 of 2014

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Shankar Dayal Singh & Ors

.... Petitioner/s

Versus

The Bihar State Religious Trust Board & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dwivedy Surendra

For the Respondent/s : Mr. Ganpati Trivedi

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 01-02-2016 1. Heard the learned counsel for the petitioner and the learned
counsels appearing on behalf of the respondents.

2. The defendants petitioners have filed this writ application
under Article 227 of the Constitution of India against the order dated
10.10.2014 passed by learned Sub Judge II, Buxar in Title suit
No.144 of 2002 whereby the Court below has rejected the application
filed by the defendants petitioners under Order VII Rule 11 CPC
praying for dismissal of the suit on the ground that the Court has no
jurisdiction.

3. It appears that the plaintiff respondent filed the aforesaid
suit for declaration that the property of the Math in question is a
public trust property. The defendant appeared and filed contesting
written statement alleging that in fact it is the private trust of the
defendant petitioners. Thereafter, the application in question under
Order VII Rule 11 was filed. The said application has been annexed

as Annexure '3' to the writ application. It is stated that since there had already been decision earlier, it has also been declared as the private Math of the petitioner, the Court below has no jurisdiction to decide the same again.

4. From perusal of the order, it appears that the Court below found that this is a pure question of fact and cannot be decided as preliminary issue. So far the finding of the Court below is concerned, it is admitted fact that there is controversy between the parties regarding the question as to whether the Math is public trust property or it is the private trust property and the Civil Court has the jurisdiction to decide this question as it is settled principal of law that the jurisdiction of Civil Court to try suits of civil nature is very expansive.

5. So far question of res judicata is concerned, it cannot be said that it is a bar created under any law. In such view of the matter, the learned Court below has rightly rejected the application under Order VII Rule 11 CPC. Thus, no case for interference in exercise of supervisory jurisdiction under Article 227 of the Constitution is made out. Thus, this writ application is dismissed.

Sanjeev/-

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(Mungeshwar Sahoo, J)