

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6296 of 2013

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1. SRI RAM MANOHAR SAH SON OF LATE MUKUND LAL SAH SECRETARY OF SRI NAGESHWAR NATH SHIVALING TRUST PUPARI, SITAMARHI (IN SHORT THE TRUST). RESIDENT OF VILLAGE, P.O. AND P.S. PUPARI, DISTRICT- SITAMARHI

2. SRI SANJAY KUMAR SON OF SRI DHARMNATH PRASAD TREASURER OF THE TRUST. RESIDENT OF VILLAGE, P.O. AND P.S. PUPARI, DISTRICT- SITAMARHI

3. SRI BAIDYANATH PRASAD @ BAIJNATH PRASAD SON OF LATE SRI MAHARAJ RAM MEMBER OF THE TRUST. RESIDENT OF VILLAGE, P.O. AND P.S. PUPARI, DISTRICT- SITAMARHI

4. SAPAN KUMAR CHAKRABORTY SON OF LATE CHANDI CHARAN CHAKRABORTY MEMBER OF THE TRUST. RESIDENT OF VILLAGE, P.O. AND P.S. PUPARI, DISTRICT- SITAMARHI

5. RAM SANEHI PANDEY SON OF LATE HARIKESH PANDEY MEMBER OF THE TRUST, RESIDENT OF VILLAGE- BALE MOHAN, P.O. AND P.S.- PUPARI, DISTRICT- SITAMARHI

6. NAWAL KISHORE CHOUDHARY SON OF LATE RAM SEVALAK CHOUDHARY RESIDENT OF VILLAGE- BHITTHA, P.O.- BHITTHA, DHARAMPUR, P.O. AND P.S.- PUPARI, DISTRICT- SITAMARHI

.... PETITIONER/S

VERSUS

1. RAM CHANDRA RAI SON OF LATE BAUEJE JI RESIDENT OF VILLAGE + P.O.- NARAYANPUR, P.S.- PUPARI, DISTRICT- SITAMARHI

2. JAI CHANDRA RAI SON OF LATE BAUEJE JI RESIDENT OF VILLAGE + P.O.- NARAYANPUR, P.S.- PUPARI, DISTRICT- SITAMARHI

3. MANOJ KUMAR SON OF LATE CHANDESHWARI CHOUDHARY RESIDENT OF VILLAGE- BHITTHA DHARMPUR, P.S. AND P.O.- PUPARI, DISTRICT- SITAMARHI

4. SANJAY KUMAR SON OF LATE CHANDESHWARI CHOUDHARY RESIDENT OF VILLAGE- BHITTHA DHARMPUR, P.S. AND P.O.- PUPARI, DISTRICT- SITAMARHI

5. ABHAY KUMAR SON OF LATE CHANDESHWARI CHOUDHARY RESIDENT OF VILLAGE- BHITTHA DHARMPUR, P.S. AND P.O.- PUPARI, DISTRICT- SITAMARHI

6. BIPIN MISHRA SON OF LATE JANAK MISHRA RESIDENT OF VILLAGE AND P.O.- BAHERA, JAHIDPUR, P.S. AND BLOCK- NANPUR, DISTT.- SITAMARHI

7. BIMAL CHANDRA CHOUDHARY SON OF RAM PARIKSHAN CHOUDHARY R/O VILLAGE, P.O. + P.S.- PUPRI, DISTRICT- SITAMARHI

8. STATE OF BIHAR THROUGH THE DISTRICT MAGISTRATE, SITAMARHI

9. BIHAR STATE HINDU RELIGIONS TRUST BOARD (NOW RECHRISTENED AS BIHAR STATE BOARD OF RELIGIOUS TRUST) THROUGH ITS PRESIDENT BIDYAPATIMARG, PATNA- 1

10. PRESIDENT- BIHAR STATE BOARD OF RELIGIOUS TRUST, BIDYAPATI MARG, PATNA- 4

11. THE SUB DIVISIONAL OFFICER PUPARI, DIST.- SITAMARHI-CUM-CHAIRPERSON OF THE SR NAGESHWAR NATH SHIVALING TRUST PUPARI, DISTT.- SITAMARHI

12. SRI BAJRANG PRASAD JALAN SON OF LATE GAURI SHANKAR JAHAN DY. CHAIRPERSON OF SRI NAGESHWAR NATH SHIVALING TRUST, PUPARI, DISTT.- SITAMARHI

13. NAGESHWAR NATH SHIVALING TRUST THROUGH ITS CHAIRPERSON, S.D.O. PUPARI

14. RAM KALYAN RAI SON OF LATE CHANDESHWAR RAI RESIDENT OF MAUZA- HARIHARPUR TOLA- TEMUHA, P.O.- HARIHARPUR, P.S.- PUPARI, DISTT.- SITAMARHI

15. PRAHLAD KUMAR SON OF RAM KALYAN RAI RESIDENT OF MAUZA- HARIHARPUR TOLA- TEMUHA, P.O.- HARIHARPUR, P.S.- PUPARI, DISTT.- SITAMARHI

16. PRAMOD KUMAR SON OF RAM KALYAN RAI RESIDENT OF MAUZA-
HARIHARPUR TOLA- TEMUHA, P.O.- HARIHARPUR, P.S.- PUPARI, DISTT.-
SITAMARHI
17. SUDHIR KUMAR SON OF RAM KALYAN RAI RESIDENT OF MAUZA-
HARIHARPUR TOLA- TEMUHA, P.O.- HARIHARPUR, P.S.- PUPARI, DISTT.-
SITAMARHI
18. PINTU KUMAR SON OF RAM KALYAN RAI RESIDENT OF MAUZA-
HARIHARPUR TOLA- TEMUHA, P.O.- HARIHARPUR, P.S.- PUPARI, DISTT.-
SITAMARHI
19. INDIRA DEVI DAUGHTER OF RAM KALYAN RAI AND WIFE OF PRAMOD
KUMAR YADAV RESIDENT OF VILLAGE AND P.O.- MUSHAILI, DISTT.-
SARLAHI IN NEPAL
20. SANGEETA DEVI DAUGHTER OF RAM KALYAN RAI AND WIFE OF
SANTOSH KUMAR YADAV RESIDENT OF VILLAGE SIBAUL, P.O.- RAYOSH P.S.-
BENIPATTI, DISTT.- MADHUBANI
21. NEBAN DEVI DAUGHTER OF LATE CHANDESHWAR CHOUDHARY, WIFE
OF RAJESH KUMAR JHA RESIDENT OF VILLAGE- JABAHI, P.O.- REDHAUR, P.S.-
PUPRI, DISTRICT- SITAMARHI

.... RESPONDENT/S

Appearance :

For the Petitioner/s : Mr. Jitendra Kishore Verma—Advocate
For the B.S.B.R.T. : Mr. Ganpati Trivedi-Sr. Advocate
Mr. Manoj Kumar-Advocate
For the State : Dr. Mankeshwar Tiwari-AC to AAG-5
For Respondent : Mr. Alok Kumar Jha-Advocate

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

04 14-03-2016 Heard learned counsel for the petitioners as well as
learned counsel for the respondents.

Without adverting to the merit of the case, it looks
better to appreciate the learned counsel for the respondents, who
has conceded that no notice in terms of Section 78 of the Bihar
Hindu Religious Trust Act has been served. The learned counsel is
also fair in his submission that whenever a suit is brought up
against the Bihar Hindu Religious Trust Act, then in that event,
applicability of Section 78 is found there.

Learned counsel for the petitioners submits that apart

from non-compliance of Section 78, the learned lower court also failed to acknowledge whether in the facts and circumstances of the case, prohibition so mandated under Section 77 of the Act, is attracted or not.

Heard both sides as well as gone through the order impugned.

Because of the fact that the matter has not been adjudicated upon by the learned lower court over maintainability of the suit in terms of Section 77 or 78 of the Bihar Hindu Religious Trust Act, on account thereof, setting aside the order impugned, the matter is remitted back to the learned lower court to decide the maintainability of the suit first.

Accordingly, instant petition is allowed. Stay so granted at an earlier occasion is hereby vacated.

(Aditya Kumar Trivedi, J)

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