

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11045 of 2012

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1. Chandra Bhanu @ Mintu Rai Son of Late Kapildeo Rai Resident Of Vishal Apartment, Bari Path Musahapur, Police Station - Pirbahore, District - Patna 800009

2. Suraj Bhanu, Son of Late Kapildeo Rai

3. Uday Bhanu, Son of Late Kapildeo Rai

4. Pancham Devi Wife of Late Kapildeo Rai

All resident of Vishal Apartment, Bari Path Musalahpur, Police Station - Pirbahore, District - Patna 800009

.... Petitioners

Versus

1. Bihar State Board of Religious Trust through its Chairman, Patna

2. The Superintendent of Bihar State Board of Religious Trusts, Patna

3. The Assistant Superintendent of Bihar State Board of Religious Trusts, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Ms. Sushmita Mishra, Advocate

Mr. Ram Sandesh Roy, Advocate

For the Respondent-BSBRT : Mr. Ganpati Trivedi, Sr. Advocate

Mr. Madan Mohan, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-11-2017

The petitioners have prayed for setting aside the order dated 05.04.2012 passed by the Bihar State Board of Religious Trust (for short 'the Board') whereby it has been held that the Ram Janki Mandir, Gandhi Ghat, Patna is a religious trust. The petitioners have



also prayed for commanding the respondents not to interfere in the matter of the aforesaid Ram Janki Mandir.

2. The main issue, raised in the writ petition is as to whether the Ram Janki Mandir, Gandhi Ghat, Patna is a religious trust within the meaning of section 2(L) of the Bihar Hindu Religious Trusts Act (for short 'the Act') and whether the alleged compromise decree passed in Title Suit No.23 of 20 of 1967/1972 passed by the Court of Additional Sub Judge-VII Patna dated 03.12.1973 has any binding effect on the Board in which the Board has not been impleaded as a party defendant.

3. Learned counsel for the petitioners submitted that the property in question is a private endowment and not a religious trust.

4. Mr. Ganpati Trivedi, learned Senior Advocate appearing for the Board has raised a preliminary objection regarding maintainability of the writ petition in view of Section 28(2)(u) of the Act. He submitted that the order under challenge passed by a competent authority would have been assailed before the competent civil court and not before this Court in writ jurisdiction.

5. I have heard learned counsel for the parties and perused the record.

7. Section 28(2)(u) of the Act clearly stipulates that



Board shall have powers to decide all disputes whether any trust is a public or a private trust in accordance with the definition under Section 2(1) of the Act and the decision of the Board shall remain in force until it is set aside by a competent court.

8. Having regard to the nature of the dispute, as the Court is of the opinion that as several disputed questions of fact have been raised in the writ petition and the petitioners have an efficacious statutory remedy, the petition need not be entertained in extraordinary writ jurisdiction under Article 226 of the Constitution.

9. Accordingly, the writ petition is dismissed with liberty to the petitioners to approach the competent court for the redressal of their grievances.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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