

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5802 of 2016

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1. Sanjay Kumar, son of Late Ramdeo Rai.
 2. Sri Ajay Kumar @ Anjay Kumar, son of Late Ramdeo Rai.
 3. Smt. Rasmila Devi, wife of Sri Rajeshwar Rai.
All resident of Mohalla-Rikabganj, P.O.-Patna City, P.S.-Malsalami,
District-Patna.
 4. Rabindra Singh.
 5. Shri Jitendra Singh, both sons of Late Sakaldeo Singh, resident of
Raibagh, Post Office and Police Station-Didarganj, District-Patna at
present residing at Musallahpur Hat, Post Office-Mahendru, Police
Station-Sultanganj, District-Patna.

.... Petitioners

Versus

1. Shree Badi Sangat, Rikabganj, Patna City through Achchelal Yadav,
Precedent, Sri Badi Sanget Trust Committee.
2. Bihar State Board of Religious Trusts, Vidyapati Marg, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. J.S. Arora, Senior Advocat
For the Respondent No. 1 : Mr. Anand Kumar Verma, Advocate
Mr. Kamal Kishore Singh, Advocate
For the Respondent-Board : Mr. Ganpati Trivedi, Sr. Advocate
Mr. Manoj Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 24-07-2018 This writ petition has been filed on 29.03.2016

challenging the order dated 19.01.2016 passed by the learned

Presiding Officer, Bihar Hindu Religious Trust Tribunal in

connection with Case No. 15 of 2009, whereby the respondent

nos. 3 to 5 were held to be encroachers and were directed to

vacate the property in question, as detailed in Schedule-I of the

application filed by the respondent no.1 with a further direction

to deliver possession of the said property within two months.



A preliminary objection has been raised by the learned counsel appearing for the Bihar State Board of Religious Trusts regarding maintainability of the writ application in view of clause (4) of Section 43A of the Bihar Hindu Religious Trusts Act, 1950 (for short 'the Act'), which provides that any party aggrieved by an order of the Tribunal made under the Act, may within 90 days from the date of order, file an appeal before the High Court so far decision shall be final.

Learned counsel for the petitioner also admitted that an appeal would lie before this Court against an order passed by the Tribunal under the Act in view of the provisions prescribed under Section 43A(4) of the Act. He submitted that he may be allowed to convert the instant proceeding into an appeal.

In view of the admitted stand of the parties, instead of permitting the petitioner to convert the writ petition into an appeal, the writ petition is disposed of with liberty to the petitioner to file an appeal in accordance with law against the order impugned before this Court within three weeks from today.

(Ashwani Kumar Singh, J.)

Sanjeet/SkSuman.

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