

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5095 of 2014

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Parashuram Das @ Parushram Das, disciple of Mahanth Ramautar Das and also known as Jha, Makranda Asthan, P.S. Manigachhi, District – Darbhanga.

.... Petitioner

Versus

1. Surendra Narayan Jha son of Badri Narayan Jha resident of Village - Bhandarson Tole Makranda, Police Station - Manigachhi, District - Darbhanga
2. Mahanth Shri Ram Shankar Das, disciple of Mahanth Mukti Narayan Das resident of Village - Pokhram, Mahanthana Asthan, P.S. Biraul, District – Darbhanga .

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Baidya Nath Thakur, Advocate

For the Respondent/s : Mr. Akhilesh Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 13-04-2018

The petitioner is plaintiff before the court below. He has filed this writ application for setting aside the order dated 03.08.2013 passed by learned Subordinate Judge-I, Darbhanga in Title Suit No.89 of 2001 whereby and whereunder the respondent no.2 was impleaded as defendant no.3 in the suit.

2. Heard learned counsel for the petitioner and the respondents.

3. The petitioner has filed the aforesaid suit before the court below for permanent injunction restraining the defendant no.1 from damaging, destroying and alienating the trust properties and for



declaration that defendant no.2 has disqualified himself from continuing as the Manager of the Trust for his acts of omission and commission. He further sought relief for declaration that the deed of trust dated 24.01.2003 executed by defendant no.1 in favour of respondent no.2 as null and void, inoperative and not binding upon the plaintiff as he has no right to execute the said document.

4. The facts giving rise to this application is that one Radha Govind Trust was created by Late Krishna Chaitanya Das Ji and Mukti Narayan Das Ji with dedication of a considerable movable and immovable properties. After the death of Mahant Madhav Das, his disciple Mahant Ramautar Das became Mahant. The said Ramautar Das (defendant no.1) appointed the plaintiff as his disciple by executing a registered deed dated 25.08.1999 for managing the trust property. At the time of appointing the plaintiff as Mahant, he was minor and so the defendant no.2 was authorized to manage the trust property till the plaintiff attains majority. The plaintiff has further alleged that the defendant nos.1 and 2 started mishandling and mismanaging the trust property and they intend to cancel the deed of appointment of plaintiff as his disciple.

5. The defendant no.1 filed written statement on 07.09.2002 denying the allegation made in the plaint. The defendant



has stated that after becoming disciple, the plaintiff did not break his relationship with his natural father who is bent upon damaging the trust properties. The plaintiff will not be entitled to personal property of the defendant no.1 in addition to the property released by the Bihar Hindu Religious Trust Board, Patna. The defendant no.1 died during trial on 06.11.2009 and after his death the respondent no.3 filed a petition on 23.11.2009 for impleading him as defendant on the ground that the Trust authorized him through Power of Attorney to safeguard the interest of the Trust. The petitioner filed rejoinder and after hearing, the intervener petition was allowed and he was impleaded as defendant no.3.

6. Learned counsel for the petitioner submits that the intervener has no right in the management of suit property. He belongs to Ramanand Sampraday whereas the Trust in question belongs to Radha Krishna Sampraday. The plaintiff was appointed as Mahant by the defendant no.1 for which a registered deed was executed on 25.08.1999. The petitioner is entitled to hold the property as trustee unless he is removed through the process of the court. The provision of vacating the office of a trustee is provided under Section 70 of Indian Trust Act. The petitioner has not violated any of the conditions in the said deed and he is bound to maintain the property



according to Section 13 of the Indian Trust Act. The defendant no.1 has no right to execute any document or create any trust within the trust which was created by him in the year 1999. The defendant even if desires to remove the petitioner from the trust, he would have to seek remedy in the court for opinion in management of trust property under Section 34 of the Indian Trust Act.

7. On perusal of records I find that the defendant no.1 appeared before the court below and filed written statement. The defendant no.2 also appeared and adopted the written statement filed by the defendant no.1. After filing of written statement by defendant nos.1 and 2, a trust deed has been brought into existence on 24.01.2003. According to the learned counsel for the petitioner, the deed of trust has been created only to create a piece of evidence. In the deed of trust the defendant made Sri Suresh Jha as General Secretary who filed a petition on 02.01.2004 for impleading him as defendant which was rejected on 09.10.2007 as not pressed. Thereafter the respondent no.2 filed a petition for impleading as party to the suit which has been allowed by the court below. The intervener defendant has remedy to take step for cancelling deed of trust on the grounds available to him and remove the petitioner from the trust as per provision of law. The said registered deed of nomination dated



25.08.1999 will remain operative until set aside by a competent court.
The court below has erred in impleading the respondent no.2 as party to the suit on the basis of a document which has been created during the pendency of the suit and also overlooking the fact that the intervener belongs to different sect.

8. In the facts and circumstances of the case, the impugned order dated 03.08.2013 is set aside and this writ application is allowed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.04.2018
Transmission Date	

