

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5685 of 2015

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Mahant Awadh Bihari Das Chela of Swami Sri Ram Kishore Das, Sadhak Chela of Late Ramdeo Das, Resident of K 56/53 Aswa Gangi Awasanganj Varanasi (U.P) at present Mahanth Chintamanichak, Harinamchak Poksi, P.S. Mokama District Patna

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Bihar State Religious Trust Board through its Superintendent.
3. The Administrator, Bihar Religious Trust Board, Vidyapati Marg, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Chandra Sen Prasad Singh, Advocate
For the State : Mr. Sita Ram Yadav, G.P.-16
For the Board : Mr. Ganpati Trivedi, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-07-2018

Heard learned counsel for the petitioner and learned senior counsel for the Bihar State Religious Trust Board.

2. By order dated 09.07.2018, at the request of Mr. Ganpati Trivedi, learned senior counsel appearing for Bihar State Religious Trust Board (for short 'Board'), the case was adjourned for a week in order to enable him to file counter affidavit in the matter, but till date counter affidavit has not been filed.

3. Mr. Ganpati Trivedi, learned senior counsel appearing for the respondent Board would submit that in view of the pleadings made in the writ petition, it may be disposed of even in absence of



the counter-affidavit.

4. In view of the submission made above, with consent of the parties, the writ petition has been heard on merits.

5. The petitioner has preferred the instant writ petition for issuance of a direction to the respondents to declare his status as Mahanth of three *Thakurbaries*, namely, Sri Ramjanki Thakubari Mokama, Patna, Harinamchak *Thakurbari*, Lakhisarai and Poksi *Thakurbari*, Nawada.

6. The contention of the petitioner is that he is the Mahanth of the aforesaid three *Thakurbaries*. He was appointed through trust deed executed in his favour by the erstwhile Mahanth of the said *Thakurbaries* and he is in exclusive control and possession over the same.

7. Mr. Chandra Sen Prasad Singh, learned counsel for the petitioner submitted that some strangers are always creating hindrance in absolute possession of the petitioner, as a result of which proceedings under Sections 144 and 145 of the Code of Criminal Procedure have been initiated. Thus, the Board may be directed to declare him as Mahanth of the aforestated *Thakurbaries*.

8. On the other hand, Mr. Ganpati Trivedi, learned senior counsel for the respondent Board submitted that the writ petition is thoroughly misconceived. He submitted that in case the petitioner is



in exclusive possession of the aforestated *Thakurbaries* and he has also been appointed their Mahanth, no mandamus is required to be issued by this Court. Simply because the petitioner claims that somebody is raising some dispute and creating hindrance in his functioning without even disclosing his name or making him a party, a mandamus in favour of the petitioner can not be issued. As far as stand of the Board is concerned, except Poksi *Thakurbari*, it has never recognized the petitioner as Mahanth of any other *thakurbari*.

9. I have heard learned counsel for the parties.

10. The prayer of the petitioner is ambiguous. Though he claims that in respect of the *Thakurbaries* in question some proceedings have been initiated under Sections 144 and 145 of the Code of Criminal Procedure, he has not impleaded any private party as party respondent. There is no document to suggest that the Board ever recognized him as Mahanth of Ramjanki or Harinamchak *Thakurbari*. It is not known as to whether any other private person has any interest in the *Thakurbaries* in question.

11. In view of vagueness of claim as also disputed question of fact as the Board has not recognized the petitioner as Mahanth of at least two *Thakurbaries*, no mandamus can be issued in the matter. Moreso, when the petitioner claims that he is coming in peaceful possession of three *Thakurbaries*.



12. Accordingly, the writ petition being premature, as no cause of action has arisen, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/SkSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2018
Transmission Date	NA

