

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23973 of 2013

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Devendra Prasad Singh Son of Late Ramdeo Singh resident of Village: Karpuri
Gram Pitonjhia, P.S. Samastipur, District: Samastipur.

.... Petitioner

Versus

1. The Superintendent, Bihar State Religious Trust Board, Vidyapati Marg, Patna,
District: Patna
2. The Trustee-Cum-Sub Divisional Officer, Samastipur, District: Samastipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Singh Tarun, Advocate

For the Respondent/s : Mr. Shekhar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-07-2018

Petitioner before this court is plaintiff of Title Suit No.83 of 2010 pending in the court of Subordinate Judge I, Samastipur. He has filed the aforesaid suit for setting aside the order contained in Letter No.2740/conf. dated 29.10.2009 issued by the Office of Sub-Divisional Officer, Samastipur restraining the petitioner from cutting the crops from the disputed land which is said to be the land of Sita Ram Thakurbari situated at village Karpuri Gram, District-Samastipur.

2. The case of the petitioner is that one Rameshwar Choudhary had no male issue. He had only a daughter, namely, Chhohara Devi. The said Chhohara Devi had two sons, namely, Devendra Prasad Singh and Anand Swaroop Singh. The aforesaid



Rameshwar Choudhary executed a registered *samarpannama* no.5392 dated 27.08.1942 in favour of Sri Sita Ram Jee Maharaj (Deity) and dedicated the suit property declaring himself as Shebait of said Thakurbari till his lifetime and after his death, his wife Ram Pari Devi and on her death her daughter Chhohara Devi who was mother of the petitioner. The Shebait so appointed were given right to perform puja-path of the said Thakurbari which was/is purely a private trust and except family members of the petitioner nobody had or has any manner of concern with the said Thakurbari. The local people fraudulently filed a petition before respondent no.1 (Bihar State Religious Trust Board, Vidyapati Marg, Patna) in the year 2009 and got the said Thakurbari registered as public trust. Thereafter the respondent no.1 issued a letter dated 15.09.2009 appointing Sub-Divisional Officer, Samastipur as trustee to manage the property. The said Sub-Divisional Officer (respondent no.2) gave order to local Mukhiya to cultivate and manage the land of Thakurbari. According to the petitioner, the said Mukhiya with the help of some villagers forcibly cut the trees and caused loss and injury to the petitioner for which the petitioner filed Criminal Case No.796 of 2010 against the concerned persons. The petitioner then filed Title Suit No.83 of 2010 for setting aside the order issued by respondent no.1 (Bihar State Religious Trust Board). The petitioner filed an injunction petition



under Order 39 Rule 1 and 2 of the C.P.C. praying therein to injunct the respondents from damaging the suit property which after hearing was dismissed by the court below as per order dated 14.10.2011. Thereafter the petitioner filed Miscellaneous Appeal No.43 of 2012 before this court which was dismissed as withdrawn with liberty to the petitioner to file the same before appropriate court. The petitioner then filed Miscellaneous Appeal No.22 of 2012 which after hearing both sides was dismissed. The present writ application has been filed to quash the said order.

3. The learned counsel for the petitioner referred to Annexure 2 to show that some of the lands were acquired by government in the year 1994 for which the petitioner was given compensation by Land Acquisition Department. The documents on record prima face show that the Bihar State Religious Trust Board had no concern till 2009 and so balance of convenience lies in favour of petitioner.

4. After hearing both sides and perusing the documents on record, I find that the petitioner claims his right of Shebaitship over the deity on the strength of registered *samarpannama* dated 27.08.1942. The genuineness of said document is not in dispute. It is also not in dispute that the rightful owner of suit property was maternal grandfather of this petitioner who had created the trust in



question and dedicated the entire property in favour of Deity Sri Sitaram Jee Maharaj giving right of management only to the family members. The documents on record show that since 1942 till 2009 there was no dispute with respect to *samarpannama* which was executed by maternal grandfather of the petitioner creating the trust giving right of worship and management to his wife and thereafter his daughter and then this petitioner. In the year 2009 some local people filed petition before the respondent no.1 on the basis of which the said trust was registered as a public trust. The petitioner has challenged the registration of the said trust as a public trust. In the impugned order, the court below has observed that the petitioner has prima facie case and balance of convenience lies in favour of the plaintiff but has rejected the injunction petition observing that the petitioner would not be prejudiced or sustain any irreparable loss in the light of direction of Sub-Divisional Officer for managing the suit property. This observation and finding of court below is against the material on record. I find that the petitioner has been able to establish prima facie as the document was created in favour of family members giving them right to worship and manage the property in the year 1942. The respondent no.1 for the first time in the year 2009 issued letter in favour of respondent no.2. The learned counsel for the respondents could not be able to satisfy this court as regards intention of



Rameshwar Choudhary in creating any public trust. The petitioner has got prima facie case and balance of convenience lies in his favour. The Bihar State Religious Trust Board has not produced any paper to show that the property in question is being managed properly benefiting the Deity. The registered document dated 27.08.1942 prima facie shows that the right of management and puja-path was given to the family members of the petitioner.

5. In view of above discussions the order refusing to injunct the defendant/committee from damaging the suit property and causing any interference in management of suit property is thus not sustainable and is accordingly set aside. The respondents are directed not to interfere in possession of the petitioner till the disposal of the suit. It is made clear that the observations made in this judgment have been made only for the purpose of disposal of the application for interim order and it should not influence the trial court in deciding the suit.

6. This writ application is accordingly allowed.

(Sanjay Kumar, J)

Harish/-

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CAV DATE	
Uploading Date	06.08.2018
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