

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 189 of 2018**

- Shriram Janki Raman Mandir Shri Thakur Ji Mandir , Shriram Laxman Mandir , Shri Hanuman Mandir , Gram Lal Bandhatalab Arjuni , District Baloda Bazar - Bhatapara Chhattisgarh , C/o Sarwarakar Chandrika Prasad Sharma S/o Shri Sharda Prasad Sharma R/o Village Arjuni , Tahsil Bhatapara , District Baloda Bazar Bhatapara Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through Collector Baloda Bazar , District Baloda Bazar Bhatapara Chhattisgarh
2. Collector, Baloda Bazar District Baloda Bazar Bhatapara Chhattisgarh
3. Punitram Verma S/o Mulchand Verma Aged About 48 Years R/o Village Mouli Outpost Arjuni , Tahsil Bhatapara District Balod Bazar Bhatapara Chhattisgarh
4. Sumitra Bai W/o Pirit Ram Sahu R/o Village Arjuni Sarpanch Gram Panchayat Arjuni Tahsil Bhatapara District Baloda Bazar Bhatapara Chhattisgarh
5. Dwarika Dhruv S/o Narayan Dhruv , Caste Gond , R/o Bus Stand Arjuni District Baloda Bazar Bhatapara Chhattisgarh
6. Sarju Yadav S/o Janakram Yadav , Panch Bajrang Chowk , Arjuni District Baloda Bazar Bhatapara Chhattisgarh

---- Respondents

For Petitioner	:	Shri H.B. Agrawal, Sr. Adv. with Ms. Prabha Sharma, Advocate
For Respondents-State	:	Shri S.K. Mishra, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****05/03/2018**

1. The instant petition is against the order dated 09.02.2018, whereby the order dated 29.07.2016 passed by the Civil Judge, Class-I, Bhatapara, rejecting the application filed by the petitioner/plaintiff under Order 39 Rule 1

& 2 CPC, has been affirmed.

2. Learned counsel for the petitioner would submit that in the year 2008, the petitioner, who was working as Sarwarkar was discharging duty of management of trust, but subsequently, Dwarika Dhruv, respondent No.5 herein forcefully taken over the management of the Temple and despite the order of the Tehsildar, he has not been given the charge and keys of the temple. He would further submit that there has been mismanagement in respect of the properties, therefore, the defendants/respondents be restrained by temporary writ of injunction not to continue the management of the Temple including performing daily Puja (Prayer), therefore, both the order of the Courts below may be set aside.
3. Perusal of the order would show that the Court below while deciding the application under Order 39 Rule 1 & 2 CPC has observed that whether Chandrika Prasad Sharma was appointed by the State is still to be adjudicated including the nature of the trust that as to whether it is a public trust or private trust. Prima facie the Courts found that the management of the temple is being carried out by the Gram Panchayat and no averments have been made that the respondents are mismanaging the affairs of the temple. The Court observed that whether Chandrika Prasad Sharma was in fact is a priest or Sarwarakar is still to be adjudicated, after the evidence is led in that respect. The order observed that Mitranand Sharma is appointed as the priest of the temple and daily rituals are being carried out in the temple, therefore, neither balance of convenience nor irreparable injuries is being caused to the petitioner/plaintiff. After perusal of the order and the document filed along with the petition, I am of the opinion that the finding arrived at by the Court below cannot be said to be illegal or without any jurisdiction as prima facie the Court has found that the balance of

convenience and irreparable injury has not been found to be existing in favour of the petitioner/plaintiff. Claim of the petitioner, if any, with respect to the title can be established before the Court below after the evidence is led. Consequently, I do not find any reason to interfere with such order to disturb such finding of fact.

4. Therefore, the petition has no merits. It is accordingly dismissed. However, the Trial Court is requested to decide the suit as early as possible.

Sd/-

Goutam Bhaduri

Judge

Ashu