

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.566 of 2016

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Mahanth Parmanand Das Chela of Mahanth Moti Das, Resident of Kabirpanthi, Asthal, Parbatta, P.O. and P.S.- Parbatta, Sub-Registry office-Gogri, District- Monghyr.

... .. Petitioner/Appellant in First Appeal/Plaintiff in Suit
Versus

Block Development Officer, Parbatta, Temporary trustee of Kabirmath, Parbatta, P. S.- Parbatta, District- Monghyr.

... .. Opposite Party/Respondent 2nd party in Appeal/Defendant 2nd Party in Suit

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Appearance :

For the Petitioner/s : Mr.Amaresh Kumar Sinha
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 08-02-2019

The instant review petition has been filed for reviewing the order dated 15.1.2016 passed by this Hon'ble Court in First Appeal No. 470 of 1984 whereby the appeal filed by the appellant has been held incompetent to proceed because respondent no.1 was only contesting respondent and there is no other respondent, who is contesting the appellant's claim.

Learned counsel for appellant submits that respondent no.2 i.e. Block Development Officer, Parbatta was party as defendant no.2 in the original Suit being the Temporary trustee of Kabirmath Parbatta, P.S. Parbatta, District Munger. The Court has failed to take the aforesaid facts into consideration while passing the order dated 15.1.2016. Learned counsel for the appellant further submits that present *Matth* is under the control



of Bihar Religious Trust Board and the Board had constituted a committee to look after the affairs of management of the *Matth*.

This Court, after looking into the judgment passed in Title Suit No. 17 of 1978, which is enclosed with the record of the First Appeal, finds that the suit has been contested mainly by defendant no.1, namely, Shree Sital Das whereas the Block Development Officer, Parbatta, was appointed as a temporary trustee by the Bihar Religious Trust Board. The Court had mentioned in the order dated 15.1.2016 that substitution petition filed for substituting the heirs and legal representatives of deceased defendant/respondent no.1 has already been rejected on 18.03.2009. The Court has further held in order dated 15.01.2016 that since the respondent no.1 was only contesting respondent, now, there is no other respondent, who is contesting the appellant's claim. It is also mentioned in the order that the appellant earlier filed an application for appointment of Administrator General, which has also been rejected. The appeal has, therefore, been held to have become incompetent to proceed by aforesaid order dated 15.1.2016 passed in First Appeal no. 470 of 1984.

The appellant has mainly argued in this review petition that defendant/respondent No.2 i.e. Block Development Officer,



Parbatta, was also party in the original Suit. Therefore, the appeal will not become incompetent.

This Court finds from the original judgment that main contesting defendant was the defendant no.1 (respondent no1) whose heirs and legal representatives were not substituted after his death. The defendant no. 2, Block Development Officer, Parbatta was made only temporary trustee by Kabirpanthi *Matth* by the Bihar Religious Trust Board. Therefore, this Court does not find any merit in this review petition to review the order dated 15.1.2016 passed in First Appeal no. 470 of 1984.

The review petition, is, accordingly, dismissed.

(Sanjay Priya, J)

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