

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16860 of 2010

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Sushil Kant Mishra S/o Late Veda Nand Mishra R/o Vill. & P.O.-
Mangrauni, P.S.- Rajnagar, Distt.- Madhubani (Bihar)

... .. Petitioner

Versus

1. The Bihar State Board of Religious Trust Vidyapati Marg, Patna-1,
Through Its Special Officer.

.. . . . Respondent 1st Set.

2. The Block Development Officer (B.D.O.) Rajnagar, P.S.- Rajnagar,
Distt.- Madhubani.

... .. Respondent 2nd Set.

3. Shri Nath Jha Member Of The Committee Constituted By The Bihar
Religious Trust Board On 30.06.89 R/O Vill. & P.O.- Mangrauni, P.S.-
Rajnagar, Distt.- Madhubani.
4. Munnar Kamti Member Of The Committee Constituted By The Bihar
Religious Trust Board On 30.06.89 R/O Vill. & P.O.- Mangrauni, P.S.-
Rajnagar, Distt.- Madhubani
5. Mahesh Paswan Member Of The Committee Constituted By The Bihar
Religious Trust Board On 30.06.89 R/O Vill. & P.O.- Mangrauni, P.S.-
Rajnagar, Distt.- Madhubani.
6. Sushil Kumar Jha, Vice-President, Congress-I, Rajnagar R/O Vill.-
Rajnagar, P.O.- Rampatti, Distt.- Madhubani.

... .. Respondent 3rd Set.

7. Ram Chandra Thakur S/O Late Mahanth Vishwanath Das R/O Vill.-
Mangrauni, Tole- Jhari, P.O.- Mangrauni, P.S.- Rajnagar, Distt.-
Madhubani
8. Vijay Chandra Thakur S/O Late Mahanth Vishwanath Das R/O Vill.-
Mangrauni, Tole- Jhari, P.O.- Mangrauni, P.S.- Rajnagar, Distt.-
Madhubani



9. Prem Chandra Thakur S/O Late Mahanth Vishwanath Das R/O Vill.- Mangrauni, Tole- Jhari, P.O.- Mangrauni, P.S.- Rajnagar, Distt.- Madhubani

... .. Respondents 4th Set.

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Appearance :

For the Petitioner/s : Mr.Shashi Nath Jha, Advocate
For the Respondent/s : Mr.Ganpati Trivedi, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 07-01-2019

Heard learned counsel for the parties.

This writ application has been preferred for setting aside the order dated 05.06.2010 (Annexure-6) passed by the 1st Additional District (Sessions) Judge, Madhubani in Misc. Case No. 26 of 1991.

By the impugned order, the substitution petition filed by the sons of Mahanth Bishwanath Das (respondent 4th set) has been allowed and they have been substituted in place of their deceased father.

Learned counsel representing the petitioner submits that the substitution of respondent 4th set is illegal and *mala fide* inasmuch as it is against the wishes of *Samarpanama* (Annexure-2) dedicated in favour of the deity. Learned counsel submits that the respondent 4th set has been substituted as if it is a case of succession of a Hindu male/adult in terms of law of succession. It is his submission that the respondent 4th set are not the *Virakt*



Vairagi Chelas of *Jhariasthan* nor they are the legal representatives who could be treated in law to represent the state of the deceased Mahanth Vishwanath Das, therefore they could not be substituted in place of Mahanth Vishwanath Das.

Learned senior counsel, Sri Ganpati Trivedi representing the Bihar State Board of Religious Trust submits that a mere substitution of respondent 4th set is not conferring any right upon them and in any case if the petitioner has got any objection to the substitution, the nature of the controversy which are being raised before this court may be a subject matter of adjudication by framing an appropriate issue in the pending suit or proceeding.

Having heard learned counsel for the parties and on perusal of the records, this court is of the considered opinion that this writ application has been preferred only against the order allowing substitution of respondent 4th set. The court agrees with the submission of learned senior counsel that mere substitution of respondent 4th set is not a declaration of any right upon them and it is only for purpose of pursuing the suit or the proceeding which are pending in the court below. If the present petitioner has any objection to the substitution and he believes that such substitution may confer a right upon respondent 4th set, the same may be raised as an issue in the pending proceeding and if such an issue is raised,



the court below shall consider the same on its own merit and on the materials which will be brought by the parties before the court.

This application is thus disposed of without interfering with the impugned order.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.01.2019
Transmission Date	

