IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7823 of 2021

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1. Shashi Bhushan Mishra S/o Kapildeo Mishra resident of village - Painal, P.O. - Painal, P.S. - Bihta, District - Patna, at present Khajpura Baily Road, Post - B.V College, P.S. - Hawai Adda, Patna.
2. Deo Sundar Devi W/o Kapildeo Mishra resident of village - Painal, P.O. - Painal, P.s. - Bihta, District- Patna.
3. Ravi Kumar s/o Late Gorakhnath Mishra resident of village - Painal, P.O. - Painal, P.S. - Bihta, District- Patna.

... ... Petitioners

Versus

1. The State of Bihar through Principal Secretary Land Revenue Reforms Department Govt. of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Patna.
3. The Sub-Divisional Officer, Danapur, Patna.
4. The Circle Officer, Bihta, District- Patna.
5. The President Bihar Hindu Religious Trust Board, Trust Board, Bidyapati Marg, Patna. 800001.
6. The In-charge Assistant Superintendent, Bihar Hindu Religious Trust Board, Bidyapati Marg, Patna - 800001.
7. Munna Mishra @ Nandgopal Mishra S/o Late Ishwar Mishra resident of village - Painal, P.O. - Painal, P.S. - Bihta, District - Patna.

... ... Respondents

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Appearance :

For the Petitioners :	Mr. Ranjan Kumar Dubey
For the Respondent State:	Mr. Rishi Raj Sinha (Sc19)
For the respondent Board :	Mr. Ganpati Trivedi, Senior Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 29-01-2022 This matter has been taken up for hearing *on-line* because of COVID-19 pandemic restrictions.

2. The petitioners have challenged a notice dated 06.10.2020 issued by the In-charge Assistant Superintendent, Bihar State Board of Religious Trust, whereby they have been asked to show cause alleging irregularities in the management of Gopalji Radhakrishna Thakurbari, Bihta, in the district of Patna. In the said notice, the said Thakurbari has been described as a public religious trust.

3. The main plank of the petitioners' challenge to the impugned notice is that without determination as to whether the said temple is a public trust or a private trust, the Board has treated the same to be a public trust. It is the petitioners' case that the Thakurbari in question is a private trust of the petitioners, of which the petitioner No.1 is the Manager and petitioner No.3 performs rituals etc.

4. I.A. No. 1 of 2021 has been filed seeking amendment in the writ petition to put to challenge correctness of subsequent letters issued by the Board dated 07.04.2021 and 16.04.2021, whereby the petitioners have been restrained from executing any sale deed or from making any construction over the land of the temple.

5. Mr. Ranjan Kumar Dubey, learned counsel appearing on behalf of the petitioners has submitted that since the concerned Thakurbari is not registered under Section 34 of the Bihar Hindu Religious Trust Act, 1950, it cannot be treated to be a public trust.

6. In our opinion, the said submission deserves to be rejected at the very outset. Whether a trust is a public trust or a private trust is a subject matter of determination under Section 28(2)(u) of the Act, if any such dispute arises. It is true that a religious trust, within the meaning of Section 2(l) of the Act is required to be registered under Section 34 of the Act. It cannot, however, be concluded that a religious trust, which is not registered under Section 34 of the Act, cannot be a public trust, following the definition of Religious Trust under Section 2(*l*) of the Act, which reads as under : -

> *"2.(l) "religious trust" means and shall be deemed always to mean any express or constructive trust created or existing for any purpose recognized by Hindu Law to be religious, pious or charitable, but shall not include a trust created according to the Sikh religion or purely for the benefit of the Sikh community and a private endowment created for the worship of a family idol in which public are not interested and where public offerings and donations are not received."*

7. It is apparent from the aforesaid definition that a private endowment created for worship of a family idol in which public are not interested and where public offerings and donation are not received is not a religious trust within the meaning of the Act. Absence of registration of a religious trust under Section 34 of the Act cannot be said to be a conclusive proof of the same being a private trust.

8. In such view of the matter, we do not find any reason to interfere at this stage. The petitioners shall be at liberty to seek their remedy before appropriate forum in accordance with law for adjudication of dispute. It has been submitted that the petitioners have already taken a plea before the Board that it is not a public trust. It will be open for the Board to adjudicate upon the same.

9. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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