

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No. 25987 of 2022
(Through hybrid mode)**

***Shri Radha Damodar Swamy, Bijje, Petitioners
Ganajm and others***

Mr. Manmaya Kumar Dash, Advocate

-versus-

***Commissioner of Endowment, Opposite Parties
Bhubaneswar and others***

Ms. P. Naidu, Advocate
(O.P. Nos.1 & 2)

Mr. Ghanashyam Dash, Advocate
(O.P. No.3)

CORAM:

**JUSTICE ARINDAM SINHA
JUSTICE SANJAY KUMAR MISHRA**

**ORDER
04.11.2022**

**Order No.
03.**

1. Mr. M.K. Dash, learned advocate appears on behalf of petitioners and submits, they are hereditary trustees of Shri Radha Damodar Swamy, Bijje. His clients are aggrieved by impugned judgment dated 13th September, 2022, made by Court of the Commissioner of Endowments, as not based on relevant evidence and hence, perverse.

2. On enquiry from Court, he demonstrates from order dated 31st July, 2013, made by the Court below that it erroneously held there is absolutely no concrete evidence to show that opposite party no.3 is

staying in the temple premises as alleged by his clients. His clients applied for revision and impugned judgment, wherein to the false stand of said opposite party residing in their own house at Bada Bazar of Ganajm was relied upon by the Commissioner.

3. We by our order dated 26th October, 2022 heard the parties on moving of the writ petition before us. Paragraph-3 in the said order is reproduced below.

“Mr. G. Dash, learned advocate appears on behalf of opposite party no.3. Said opposite party is to inform this Court whether or not he is in possession of scheduled land or house or has put lock on door thereof, being subject matter of controversy before the Court below and in revision. To this effect said opposite party will file affidavit. It will be accepted on adjourned date, upon advance copy served.”

Opposite party no.3 has filed counter pursuant to the direction. In it, said opposite party has said on oath, he is in occupation in entire temple premises along with kitchen area.

4. Mr. G. Dash, learned advocate appears on behalf of opposite party no.3 and on query from Court submits, said statement in the counter has been stated true to knowledge of his client.

5. Impugned judgment is set aside and quashed as divorced from the fact. It is perverse.

6. The revision is restored to the Commissioner for expeditious consideration and disposal. Court expects it will be done within two months from date.

7. The writ petition is disposed of.

(Arindam Sinha)
Judge

(S.K. Mishra)
Judge



Sks/AKPradhan