

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.201 of 2020

In

Civil Writ Jurisdiction Case No.15159 of 2019

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Deveshkant Singh, S/o Late Bhumendra Narain, male, aged about 51 years,
Resident of Village- Goreakothi, P.S.- Goreakothi, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Bihar State Hindu Religious Trust Board through its Chairman, Vidyapati Marg, Patna.
3. Administrator, Bihar State Hindu Religious Trust Board, Vidyapati Marg, Patna.
4. Sub Divisional Officer, Maharajganj, Siwan.
5. Circle Officer, Gorakothi, District- Siwan.

... .. Respondent/s

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Appearance :

For the Appellant/s	: Mr. R.K.P. Singh, Adv. Mr. Mukesh Kant, Adv.
For the Religious Trust Board	: Mr. Ganpati Trivedi, Sr. Adv. Mr. Mohit Kumar, Adv.
For the State	: Mr. Gyan Prakash Ojha, G.A.-7 Ms. Sanghmitra Ghose, A.C. to G.A.-7

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 22-03-2023



Heard Mr. R.K.P. Singh, assisted by Mr. Mukesh Kant, the learned Advocates for the appellant and Mr. Ganpati Trivedi, Senior Advocate for the respondent/Bihar State Hindu Religious Trust Board.

2. The State is represented by Mr. Gyan Prakash Ojha (G.P.-7)

3. The judgment under challenge has been delivered on 04.02.2020 in C.W.J.C. No. 15159 of 2019.

4. The appellant had initially filed the writ petition for quashing the Notification No. 3292 dated 25.03.2017 passed by the Administrator of Bihar State Hindu Religious Trust Board (*hereinafter referred to as the Board*) by which a new Trust Committee was constituted. Later, the prayer was permitted to be amended for challenging the Letter No. 2848 dated 02.02.2017 passed by the Administrator of the Board, by which the petitioner was removed from the position of Trustee of Sri Ram Janki Temple, Goriakothi, Siwan.



5. The argument advanced on behalf of the appellant is that the Board assumed jurisdiction over the private Trust of the appellant, which authority the Board never possessed. The only reason for the Board to interfere with the functions of the private Trust is perhaps a complaint, first of all made in the year 1959 and, thereafter, repetatively against the nominated *Mahant* and his *chellas*, who succeeded the main *Mahant* in succeeding years and a complaint by a political adversary in managing to raise a question in the Bihar Legislative Assembly.

6. It was, thus, argued that unless an enquiry is made under Section 28 of the Bihar State Hindu Religious Trusts Act, 1950 (*hereinafter referred to as the Act*), no jurisdiction is extended to the Board for administering such trust. It has further been submitted that merely on the complaint, a private Trust cannot be interfered with.

7. The contentions of the appellant was



repelled by the Board primarily on two grounds.

8. It was submitted by Mr. Ganpati Trivedi, that in the register of the Board, it has been declared that the Trust was registered with the Board in the year 1985 with the Registration No. 2943. It has further been contended that an enquiry had been conducted with respect to the Trust being a private or public and only after it was found from the local persons and other documents *sans* the letter of dedication that it was a public religious trust and the temple having been opened to general public for offering prayers, the Board took a decision to register the same with it, requiring management of the Trust to furnish accounts and maintain the Trust property without alienating any part of it for any other purpose.

9. A detailed enquiry was shown by the Board to have been made prior to its registration in the year 1985 and, thereafter, with respect to its finding that the Trust was being mismanaged. The evidence



which could be garnered with respect to mismanagement was sale of Trust property by *Mahants* of which specific instances were provided during the enquiry and construction of shops which fetched huge amount as rental, which was never used for the upkeep of the temple, but was appropriated by the appellant.

10. Considering this aspect of the matter and finding the response of the appellant to be unconvincing to the show-cause notice issued to him along with the instances of illegal sale of the Trust property, the Board took a decision of disbanding the Committee, which was challenged by the appellant in the writ petition referred to above.

11. Mr. Trivedi further contends that against the aforesaid order of disbanding the Committee, there is a provision of an appeal against such order before the District Judge of the District for varying, modifying or setting-aside of such order.

12. Before disbanding the Committee, the



appellant was also removed from the position of Trustee and the Trust was handed-over to a local officer; (however, the charge has yet not been handed-over) for the needful.

13. This order also was assailable under Section 28 sub-Clause (3) of the Act before the District Judge.

14. However, as Mr. R.K.P. Singh, the learned Advocate for the appellant contends, such issues were raised but the learned Single Judge decided the matter on merits and, therefore, such jurisdictional issues cannot be raised in appeal by the respondent.

15. It has further been submitted on behalf of the Board that Section 28 (2) (u) of the Act provides that the Board shall have the power to decide all the disputes, whether any Trust is a public or a private Trust in accordance with the definition under Section 2(i) of the Act and the decision of the Board shall remain in force until it is set-aside by a competent Court.



16. For the sake of completeness, it is stated that the Religious Trust also has been defined in the dictionary of the Act [Section 2(l)], which 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.

17. This provision contained in Section 28 (2) (u) of the Act was inserted in the Act only in the year 2007 and prior to that, there was no provision in the Act as to the forum where such an issue could be raised and decided.

18. However, in the year 1968, in case of ***Mundrika Kuer Vs. President, Bihar State Board of***



Religious Trust; 1968 BLJR 197, an issue had arisen as to the competence of the Board to decide such question in the absence of any specific provision in the Act. The Two-Judges' Bench, deciding the matter, held that when the Legislature by the Act created the Board, it also, in effect, conferred on it initial jurisdiction to decide whether a religious Trust is a public Trust or a private Trust because on that decision would depend the exercise of its further jurisdiction as conferred by the Act; but inasmuch as there is no provision in the Act making the decision on the jurisdictional question final, it will always be open to the aggrieved party to challenge the same in an appropriate proceeding in the Civil Court because no body or Tribunal can give itself jurisdiction by a wrong decision on the jurisdictional fact.

19. However, it was clarified that to say that once a dispute is raised, the Board has no jurisdiction to decide whether a religious trust is public or private, and that it must abdicate its functions and go to



the Civil Court, will not be justified by any Authority and will render the provisions of the Act practically ineffective.

20. The Bench proceeded to explain that the Act was made mainly for the purpose of better administration of religious trusts, and there will always be vested interests ready to raise a dispute about the jurisdiction of the Board to administer the same.

21. It was also held that such issues could not have been decided in a petition under Article 226 of the Constitution of India and per force the parties had to go to Civil Court.

22. This judgment has been referred to by Mr. Trivedi for the sole purpose of demonstrating that once a decision by the Board was taken for registering the trust with it as a public religious trust and if the same aggrieved the appellant, he could have questioned it before the competent Civil Court, which was not done till the Act was amended in the year 2007, when it was



decided that the decision with respect to the fact whether a trust is a public or a private trust vests with the Board itself and the decision of the Board shall be final. Nonetheless, this does not exclude the jurisdiction of the competent Civil Court, especially in view of the fact that there is no letter of dedication by the original debutter on record.

23. Mr. Trivedi, however, submits that along with the notice to the appellant for explaining the allegation of mismanagement, a record from the Circle Office, listing the land dedicated to the temple was also furnished.

24. Thus, the assumption by the Board is of such property only which is the dedicated property of the temple, which needs to be managed in accordance with the Rules/Act prescribed and for the end result of upkeep of the temple premises.

25. The further argument on behalf of the Board is that the letter of dedication is deliberately being



withheld.

26. Though, Mr. Singh has vehemently opposed the aforesaid contention, but submits that since such passage had been provided to him by the learned Single Judge of agitating those issues before the competent Civil Court, he would elect to exercise that option. He has further submitted that any reference to factual position or any exposition of law may not come in the way of the competent Civil Court deciding the issues in accordance and in consonance with the evidence adduced on behalf of the parties.

27. However, under the circumstances we are of the view that the *status quo ante* with respect to the temple premises shall be maintained as ordained by the learned Single Judge. The *status quo ante* on the date when such challenge was made before the learned Single Judge was that there was a decision to reconstitute the Committee and remove the appellant as the trustee. This situation shall continue and the



property dedicated to the temple shall be governed by the Committee and the trustee appointed by the Board, which shall spend the amount so received for the upliftment and upkeep of the temple and the balance amount shall be kept in a separate account along with the appellant, with a condition that no money shall be taken out from such account till the final disposal of the issues by the competent Civil Court.

29. Needless to say that the charge of the property dedicated to the temple shall be handed over to the trustee and the Committee forthwith and any violation of this direction would entitle the Board to proceed against the appellant in accordance with law.

30. It is expected that in case the appellant moves the Civil Court for the needful, the suit shall be decided expeditiously.

31. The Trial Court shall also consider waiving the period of limitation on good grounds being shown for the same including the pendency of the writ



petition and the appeal.

32. With the afore-noted direction/
observation, the appeal stands disposed off.

(Ashutosh Kumar, J)

(Harish Kumar, J)

sharun/praveen-

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