

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.202 of 2015

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1. Bodh Gaya Math through Mahanth Ramesh Giri, Chela Late Mahanth Satanand Giri, resident of Bodh Gaya Math, Police Station Bodh Gaya, Post Office Bodh Gaya, District - Gaya.
 2. Mahanth Ramesh Giri, Chela of Late Satanand Giri, Managing trustee of Bodh Gaya Trustee Committee of Bodh Gaya, Police Station Bodh Gaya, District - Gaya.
 3. Goswami Din Dayal Giri, Disciple of Harihar Giri, resident of Bodh Gaya Math, Police Station Bodh Gaya Math, District - Gaya.
 4. Uma Shanker Pathak, son of Late Chaturbhuj Pathak, resident of village - Bakraur, Police Station - Bodh Gaya, District - Gaya.

... .. Appellant/s

Versus

1. Smt. Geeta Devi, wife of Shri Anoop Singh,
2. Smt. Rita Devi, wife of Ram Krishna Prasad, both residents of village - Raniganj, District - Bardwan, West Bengal.
3. Moti Lal Dangi,
4. Punna Lal Dangi, both sons of Shyam Lal Dangi, both residents of village - Raniganj, District - Burdwan, West Bengal.
5. Smt. Sunita Singh, wife of Sri Ravindra Kumar Singh
6. Sri Ravindra Kumar Singh, son of name not known, both residents of Mohalla 407 Anugrhpuri Colony, Police Station - Rampur, District - Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kamal Nayan Chaubey, Senior Advocate with Mr. Ambuj Nayan Chaubey, Advocate Mr. Prashant Kumar, Advocate Mr. Shashank Shekhar Dubey, Advocate
For the Respondent/s	:	Mr. Bindhyachal Singh, Senior Advocate with Mr. Vipin Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

12 23-03-2023 This second appeal has been filed against the judgment and decree dated 31st March, 2015, passed in Title Appeal No. 17 of 2014/ 39 of 2013 by the learned Additional District Judge, 7th, Gaya, whereby judgment and decree dated 25.02.2013 passed in Title Suit No. 34 of 2011/ 59 of 1984 has



been affirmed.

2. The plaintiffs-appellants filed title suit for permanent injunction against the defendants. The case of the plaintiffs is that the original defendant no. 1, Dhansukh Giri was appointed according to customs of the *Math* as succeeding *Mahanth* by *Mahant* Sri Shatanand Giri and in usual course, became the *Mahanth* of Bodh Gaya *Math*. After assuming charge of *Mahanthship*, original defendant no. 1, namely, Dhansukh Giri expressed his desire to devote himself wholly and absolutely to the spiritual side of the *Mahant* as a true recluse and he was then incapable of reconciling himself with the *Mundane* side of the *Math* vis-a-vis the properties thereon. Thereafter, he constituted a committee having full powers to manage, supervise the property of the *Math* and do everything connected with the *Math* including operation of the bank's account as well. The case of the plaintiffs is that the defendant no.1 divested and disassociated himself and became holder of different property. Further, case of the plaintiffs is that the defendant no. 1 became a titular head to maintain the status of Bodh Gaya *Math* only and relinquished his trust-ship in favour of the committee. It is also submitted that defendant no. 1 filed a suit bearing Title Suit No. 57 of 1980 in the Court of Munsif,



2nd, Gaya. The same terminated in compromise between aforesaid *Mahanth*- defendant no. 1 and original plaintiff nos. 1, 2 and 3 in which the agreement dated 07.07.1978 was reaffirmed. Further, the case of plaintiffs is that *Mahanth* became addict of wine and women. The entire senior member of disciples of the *Math* revolted and took serious view of matter and the matter was reported to Bihar State Hindu Religious Trust Board, Patna, which directed the plaintiff no. 2 to take proper steps in accordance with terms of the agreement. Further, it is stated that several sale deeds have been concocted and brought into existence in which *Mahanth* Dhansukh Giri has been shown to have executed the sale deed while the alleged sale deed have not been executed by the *Mahanth* Dhansukh Giri and the same was forged and fabricated. It is also submitted that sale deeds alleged to have been executed by the defendant no. 1 in favour of the alleged vendee did not derive any right, title and interest and alleged deeds are void *ab initio* and not binding on the plaintiffs.

3. Defendant nos. 7 and 8 contested the suit before the lower court by filing their joint written statement and denying the allegations mentioned in the plaint. The contention of the defendant in short is that the defendant pleaded that the



suit property was the personal property of *Mahant* Dhansukh Giri original defendant no. 1. The Hon'ble Supreme Court vide compromise order dated 24.04.1957 in Civil Misc. Petition No. 591/1957 in Civil Appeal No. 484/1957 held that the suit property along with the other property mentioned in schedule II of the compromise to be the personal property of the then *Mahant* Harihar Giri. The suit property remained the personal property of Sri Harihar Giri till 1958 and thereafter the same was held by his successor, late Sadanand Giri who continued to hold it as his personal property till 1977 and thereafter was succeeded by *Mahant* Dhansukh Giri. *Mahant* Dhansukh Giri continued to hold the said property as his personal property till he sold the said property by six registered sale deed dated 31.10.1983 to defendant nos. 2 to 6 and delivered the possession to vendee and the said vendee subsequently sold the property to defendant no. 7, Smt. Sunita Singh. The defendant further pleaded that the name of Dhansukh Giri stood recorded in the demand register of the Gaya Municipality and the name of the vendee of Dhansukh Giri was also mutated. Defendant no. 7 purchased the entire suit property under 8 sale deeds and her name has been mutated in the municipal demand register. Defendant further contended that the *Mahant* Dhansukh Giri



never divested and disassociated himself with any property and he never squandered money and movable property of *Math* nor ever he alienated the property of *Math* as alleged in the plaint. The defendant also denied the allegation that *Mahant* Dhansukh Giri was ever addicted to wine and women. It is also wrong to say that Dhansukh Giri resigned from the office of *Mahantship* and also alleged that the resignation letter exhibited as Annexure '1' to the plaint is forged and fabricated.

4. Considering the aforesaid submissions and on perusal of the records show that the suit was filed only for permanent injunction and both the Courts have concurrently held that Section 34 of the Specific Relief Act specifically provides that in absence of relief(s) which ought to have and has not been sought for in the suit, such suit shall not be maintainable and shall be liable to be dismissed. It is further held that *Mahant* Dhansukh Giri possessed property which has been admitted by the plaintiffs in paragraph no. 3 of the plaint. From the factual position stated above and particularly considering Ext. D (compromise decree) passed by the Hon'ble Supreme Court in CMP No. 591 of 1957 in Civil Appeal No. 484/1957 and Ext. F, it is apparent that Dhansukh Giri, original defendant no. 1, possessed some exclusive properties which had



no connection with the properties of *Math* and which he was free to deal in the manner he chose and therefore had legal right to make sale and the vendees of Dhansukh Giri, on payment of due consideration amount, acquired right title and possession over their purchased land. However, as far as properties belonging to *Math*, the same right could not be exercised by Dhansukh Giri but for the interest/benefit of the *Math*. It was further held that Dhansukh Giri had never resigned from the *Mahantship*.

5. In view of the aforesaid facts and circumstances of the case, as discussed above, it is quite apparent that the judgments and decree of the courts below are covered by the finding of fact and no question of law much less substantial question of law arises for consideration in the instant Second Appeal.

6. Accordingly, this Second Appeal is dismissed at the stage of admission itself under Order XLI Rule 11 of the Civil Procedure Code.

(Khatim Reza, J)

Annpurna/-
J.Alam/-

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