

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.391 of 2021

In
Civil Writ Jurisdiction Case No.8562 of 2020

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Nawal Kishore Sureka S/o Late Murlidhar Sureka Resident of Henry Bazar,
Loharpatti, Police station- Motihari Town, District- East Champaran, at
present Sureka Sadan Sutapati, Police Station- Town, District- Muzaffarpur

... .. Appellant/s

Versus

1. The Bihar State Board of Religious Trust through its Chairman, Vidyapati Marg, Police Station- Budha Colony, Patna-1
2. The Chairman Bihar State Board of Religious Trust, Vidyapati Marg, Police Station- Budha Colony, Patna-1
3. Dipak Agrawal S/o Kanhaiya Prasad Resident of Main Road, Motihari, Police Station- Motihari Town, District- East Champaran

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Ms.Mahasweta Chatterjee, Advocate
For the Respondent/s	:	Mr. Ganpati Trivedi, Sr. Advocate
		Mr.Madan Mohan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-05-2023

The appellant is aggrieved with the judgment of the learned Single Judge which relegated the appellant and the 3rd respondent to the 1st respondent.

We have heard learned Counsel Ms. Mahashweta Chatterjee for the appellant and Shri Ganpati Trivedi, learned Senior Counsel for the respondent No. 1 as also Shri Madan



Mohan for respondent No. 3.

The writ petition was filed by the appellant challenging an order dated 04.08.2020 by which two buildings, namely Manbhari Vivah Bhawan and Surekha Atithi Bhawan were declared as public trust in the name of “Manbhari Kuar Dharmshala”. By the impugned order, it was also directed that the said Dharmshala will get registered with the Board within two days.

The objection is raised insofar as the decision having been taken by the President, especially when the Board was not constituted at that time. The said objection is met by the learned Senior Counsel for the Board on the submission that it stands constituted on 02.01.2021.

Faced with the above situation, the learned counsel for the petitioner argued that there was a suit pending, which objection is also not relevant since the 3rd respondent, who filed the suit, had submitted before Court that the suit was filed on a wrong advice and the same would stand withdrawn. The further objection of the petitioner was that the Board cannot exercise any power on a private trust.

In fact, the learned Single Judge had specifically referred to Section-28(2)(u) of the Bihar Hindu Religious Trust



Act, 1950. The powers of the Board included a decision on dispute as to whether a trust is a private or public trust in accordance with the definition 2(1) of the Act. The learned Single Judge also found that a decision arrived at by the Board as to the nature of the trust would be final, unless set aside by a competent Court.

We are of the opinion that the impugned judgment is unassailable. The learned Single Judge has merely remanded the matter to the Board for consideration of the issue whether it is a public trust or a private trust. The petitioner has also a remedy, by way of a challenge in a suit, against any decision of the trust being a public one.

The L.P.A. would stand dismissed, without any order as to costs.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

K.C.Jha/-

AFR/NAFR	N.A.F.R.
CAV DATE	
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