

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No. 137 of 2018

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Jata Shankar Mishra Son of Sri Gajadhar Mishra, Sebait and Pujari of Hanuman Mandir, Situated at the North East Corner R/o Village- Bidauli, P.S.- Kuchai Kot, District- Gopalganj, at present residing at Sidheshwar Nagar, Devi Asthan, P.O. and P.S.- Patliputra, Town and District- Patna.

... .. Petitioner/s

Versus

1. The Bihar Hindu Religious Trust Board Through Its President and Ors
2. The Administrator cum Special Officer, Bihar Hindu Religious Trust Board.
3. The Superintendent, Bihar Hindu Religious Trust Board.
4. The Assistant Superintendent, Bihar Hindu Religious Trust Board. Office to all situated at Vidyapat
5. Saguni @ Saguni aged about 60 years, S/o Late Ram Kripal Paswan, R/o Mohalla- Sheopuri, Near Sheo Mandir, P.O.- G.P.O., P.S.- S.K. Puri, Town and District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Pandey, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

7 29-08-2023 The present Revision Petition has been preferred against the order dated 26.06.2018 passed by Smt. Sarika Vahalia, Execution Munsif, Patna, in Execution Case No. 77 of 2016, whereby the Court has disposed of the Execution proceeding holding as follows :

“ On the above mentioned facts and operation fact of decree this court finds that the decree which is filed of original suit was declaratory decree and there is nothing to execute for the same. The court also found that earlier court has passed D.P. order which cannot be executed. There is nothing in the decree about to open any Daan



Patra with the help of Court. So all the orders which was already passed by the court for execution proceeding and for submission of cost is being recalled by this court today.

Hereby Execution Court directed to the decree holder to withdraw all the amount which was paid by him at Nazarat for the purpose of execution of this case.

On the above mentioned order, this execution case is disposed of. Office clerk is directed consign this record in record room.”

2. However, Ld. Counsel for the Petitioner, Shri. Radha Mohan Pandey submits that the impugned order is not sustainable in the eye of law. He further submits that the Petitioner has been declared as Shebait and Pujari of the temple, meaning thereby that the Respondent No. 5, who was Defendant No. 5 in suit, is not a Shebait or Pujari. However, he is interfering in the functioning of the Petitioner as Shebait or Pujari. Hence, the Executing Court is required to restrain him from such interference and the Petitioner who is declared as Shebait/Pujari should be allowed to function as Shebait/Pujari. But, Ld. Execution Court has wrongly disposed of the Execution Proceedings holding that the decree is of declaratory nature and after declaration, nothing remains to be executed.

3. Perused the case record and considered the submission advanced by Ld. Counsel for the Petitioner. Undisputedly, the suit was filed for declaring the Plaintiff, who is Petitioner herein, as Shebait and Pujari of the Hanuman Mandir, setting aside the Order dated 28.01.2009, passed by the



Hindu Religious Trust Board. There was also prayer for *ad interim* injunction to restrain the Defendant/Second Party from functioning as Shebait or Pujari.

4. After trial, the suit was decreed. Execution Proceeding was filed to execute the decree. Hence, the Execution Court has rightly disposed of the Execution Proceedings holding that there is nothing to be executed. If Respondent No.5 is interfering with the functioning of the Petitioner as Shebait/Pujari, he has remedy to file suit for permanent injunction, but there is nothing in the decree in question which provides for restraining the Respondent No. 5 from such interference. The Petitioner had prayed for *ad interim* injunction against Respondent No. 5 along with the prayer for declaration but undisputedly, there was no prayer in the suit for permanent injunction.

5. In such situation, there is no illegality or irregularity in the impugned order passed by the Execution Court. The present Revision Petition is absolutely misconceived and abuse of the process of the Court, unnecessarily wasting judicial time of the Court when there is already such huge pendency of cases.

6. Hence, the present Revision Petition, shorn of any



merit, is dismissed. To discourage such frivolous litigations, a cost of Rs. 25,000/- is also imposed upon the Petitioner to be remitted to the Patna High Court Legal Services Committee.

(Jitendra Kumar, J)

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