

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3282 of 2022

Ashok Kumar Singh Son of late Ramta Prasad Singh Resident of Village-
Mojari, Police Station- Shiv Sagar, District- Rohtas at Sasaram, the Manager
of Shri Thakur Jee and Mahabir Jee Mandir, Mojari

... .. Petitioner/s

Versus

1. The State of Bihar Revenue Secretary, Government of Bihar, Patna.
2. The Bihar State Board of Religious Trust through its Chairman, Vidyapati Marg, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms.Mahasweta Chatterjee
For the Religious Trust		Mr. Ganpati Trivedi, Sr. Advocate
		Mr. Ritik Shah
For the State		Mr. Birendra Prasad Singh, AC to SC 19

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

7 13-12-2024 I have already heard Ms. Mahasweta Chatterjee, the

learned counsel for the petitioner, Mr. Ganpati Trivedi, learned

senior counsel, appearing for the Respondent No.2- Bihar State

Board of Religious Trust and the learned counsel for the State.

2. The petitioner has preferred the present writ
application for the following reliefs:-

“(i) That an appropriate writ may be issued
quashing the part of the Order dated 20/07/21
by which the Chairman and another members
of Bihar Hindu Religious Trust Board have
directed the Parties not to Sale, Mortgage the
property involved in the case.



(ii) That an appropriate writ may be issued commanding upon the Respondent No. 1 to hear the case pending before the Board for deciding the nature of the trust by the full-fledged Board, not by Chairman with one or two members of the Board.”

3. Whenever and wherever a question arises whether a Hindu Religious Trust is a public Trust or a private Trust, the Bihar State Board of Religious Trust (for short ‘the Board’) is empowered to decide it under Section 28(2(u) of the Bihar Hindu Religious Trusts Act (hereinafter to be referred to as ‘the Act’. For ready reference Section 28 (2) (u) of ‘the Act’ is being extracted hereinbelow:-

“28. General powers and duties of the Board.-

xxx xxx xxx

(2) Without prejudice to the generality of the provisions of sub-section (1), and subject to the other provisions of this Act, the powers and duties of the Board shall be-

xxx xxx xxx

(u) to decide all disputes whether any trust is a public or a private trust in accordance with the definition under section 2(1) of this Act and the decision of the Board shall remain in force



until it is set aside by a competent court.”

4. In the instant case, the proceeding is pending before the Board since 2009 for adjudication whether Shri Thakur Jee and Mahavir Jee is a public Trust or a private Trust. The petitioner claims it to be a private Trust, whereas the Board claims it to be a public Trust. As per the version of the petitioner, his ancestor Murlidhar Singh of Mojari village founded the temple of Shri Thakur Jee and Mahavir Jee. The petitioner, after the death of his father, started managing the affairs of the temple since 1978. Prior to 1978, his father Ramta Prasad Singh was managing the Trust. Some villagers wanted to make the premises of the temple as the grazing ground and they filed a complaint before the Board with allegation of mismanagement of the Trust. The Administrator of the Board, assuming it to be a public Trust, directed to register it vide order dated 04.03.2009. Thereafter, it was registered under Section 34 of the Act. The petitioner challenged the order dated 04.03.2009 in CWJC No. 4959 of 2007. The coordinate Bench of this Court, vide order dated 24.07.2009, set aside the order of the Administrator of the Board dated 04.03.2009. The following observations were made by the coordinate Bench of this Court:-

“The Court after perusing the records and



hearing the parties is in agreement with learned counsel for the petitioner to the extent that if the final adjudication with regard to status of the property is yet to be made then it is needless to say that the order dated 04.03.2009 passed by the administrator cannot be allowed to be sustained. To that extent the petitioner has succeeded in making out the case for interference. The order dated 04.03.2009 contained in Annexure-5 therefore stands quashed. It is left open to the parties to the dispute that they shall establish their claims before the administrator under the so called exercise of power under section 28(2)(u) of the Act. Future course of action will be dependent upon the adjudication made in this regard”

5. Thereafter, the petitioner filed an application before the Board to de-register the Trust. The then Administrative of the Board, vide order dated 29.07.2009, disposed of the petition of the petitioner, stating that there was no necessity for cancellation of the registration. If the property in question is declared to be the personal property of the petitioner, the registration will be automatically cancelled. Then the petitioner filed a review application dated 02.03.2015, which was



dismissed by the President of the Board vide his order dated 29.04.2015. Against the order dated 29.04.2015, the petitioner preferred CWJC No. 10054 of 2015. Vide order dated 11.01.2022, the Division Bench of this Court dismissed the writ petition filed by the petitioner and also imposed a cost of Rs. 20,000/- on the petitioner. The the Hon'ble Division Bench was of the opinion that due to action of the petitioner the matter is being lingered for considerable long duration. It has been held by the Hon'ble Division Bench that the Tribunal (Board) has rightly held that the registration of the Trust would loose its significance if the fact in issue whether the trust is a public or private is adjudicated upon. Para-19 of the said decision is being quoted hereunder:-

“19. There is no gainsaying that the question as to whether the Trust is a public trust or a private trust is yet to be adjudicated upon. It was rightly pointed out by the Tribunal that in the event the Trust is held to be private, its registration would lose its significance. Cancellation of registration, at the present stage would amount to recording of finding that the trust is a private trust.”

6. The learned counsel for the petitioner has submitted that vide impugned order dated 20.07.2021, the President of the



Board promulgated the order of temporary injunction, prohibiting the alienation of movable or immovable properties belonging to the temple. The learned counsel has further submitted that still the status of the Trust whether it is a public or private is to be determined. In such a situation, the prohibitory injunction cannot be granted. She also submitted that when the order dated 04.03.2009 has been set aside by the coordinate Bench of this Court, the property in question cannot be said to be the property of a public Trust. Hence the President of the Board has no jurisdiction to promulgate the order of temporary injunction against alienation of those properties.

7. Per contra, Shri Ganpati Trivedi, the learned senior counsel appearing for the Board, has submitted that due to lingering tactics of the petitioner, the status of the Trust could not be decided for such a prolonged period of 15 years and owing to dilatory tactics adopted by the petitioner, the Hon'ble Division Bench has also imposed a cost of Rs. 20,000/- on him while dismissing his writ petition being CWJC No. 10054 of 2015. The learned senior counsel has also submitted that how the permission can be granted to the petitioner to alienate those properties in relation whereof it is yet to be decided whether it is a public or private Trust.



8. It is yet to be decided as to whether the Trust in question, is public or private. I am of the view that unless the nature of the trust whether it is public or private is adjudicated upon, any person cannot alienate the properties relating to the trust. The learned President of the Board has restrained all the parties from alienating the properties and he directed to maintain status quo by the impugned order dated 20-07-2021. The order of the Board is well reasoned and it requires no interference.

9. Accordingly, this writ petition is dismissed.

(Nawneet Kumar Pandey, J)

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