

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10902 of 2023

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1. Most. Shanti Devi W/o Late Dayanand Pandey, Resident of Mohalla- Brahamani Ghat, Near Dumariya Temple, Town- Gaya, Post- Chand, P.S.- Bishnupad, District- Gaya, Bihar.
 2. Vivek Kumar Son of Sri Puna Sharma, Resident of Mohalla- Pachhati Post and P.S. Bodh Gaya, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Registration, Prohibition and Excise, Bihar.
2. The Additional Chief Secretary, Department of Registration, Prohibition and Excise, Bihar.
3. The District Registrar-cum-Collector, Gaya.
4. The Sub Registrar, Gaya, District- Gaya.
5. The Deputy Collector Land Reforms, Bodh Gaya, District- Gaya.
6. The Circle Officer, Bodh Gaya, District- Gaya.
7. The Bihar State Board of Religious Trusts, Vidyapati Marg, Patna through its Chairman.
8. The Chairman, Bihar State Board of Religious Trusts, Vidyapati Marg, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Dubey, Advocate Mr.Shashank Kashyap, Advocate Mr.Kumar Gaurav, Advocate
For the Trust Board	:	Mr.Ganpati Trivedi, Sr. Advocate
For the Respondent/s	:	Mr.Vikash Kumar (SC11)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 13-03-2024 Heard Mr. Ranjan Kumar Dubey along with Mr. Shashank Kashyap and Mr. Kumar Gaurav, learned counsels appearing on behalf of the petitioners; Mr. Ganpati Trivedi, learned senior counsel for the Trust Board and Mr. Vikash Kumar, learned SC 11 for the State.

2. Learned counsel appearing on behalf of the petitioners seeks to withdraw the present writ petition with liberty to exhaust alternative remedies for redressal of the



grievance of the petitioners.

3. Considering the aforesaid submissions made on behalf of the petitioners, this Court deems it fit and proper to grant liberty to the petitioners to avail the statutory remedy available to them under Section 43 of the Bihar State Hindu Religious Trust Act. If any such application is filed before the Tribunal, then the Tribunal is required to exercise its jurisdiction and after calling upon the records and hearing the parties relating to the lands, in question, which the Sub Registrar has locked so that the petitioners or any one claiming title over can not take advantage of the situation.

4. The State Government has not disputed that the said land is government land, nor any one has filed title suit for declaring title while the President of the Board has declared the trust as public trust and the status of the land is owned by the deity of the trust.

5. The Board has exercised its jurisdiction to declare the land to be land of the trust. However, the Court finds that the power of declaration of an immovable property as trust property vests only with the Tribunal constituted under the Bihar Hindu Religious Trust Act, 1950 under Section 43. In this regard, it is gainful to reproduce paragraph no.24 of the judgment rendered



in the case of *Ishwari Prasad Jhunhunwala v. Bihar State Religious Trust Board, Patna*, 1989 SCC OnLine Pat 111

24. Evidently, therefore, there exists a dispute as to whether the petitioner is the owner in respect of the said property or not. In my opinion, such a question of title cannot be decided by me in exercise of my jurisdiction under Arts. 226 and 227 of the Constitution of India. Such a disputed question of title can be decided in terms of the provisions contained in S. 43 of the Bihar Hindu Religious Trusts Act, 1950.

6. The petitioners have claimed title over the lands, in question, therefore, the Tribunal must arrive at definite finding with respect to the nature of land whether it is owned by the public/trust or justifyinf the claim of the petitioner, who has produced evidences such as sale deed dated 16.04.1970. The detail description of the land is in revisional survey and *khatiyani*, subsequent to which the petitioners had got the land mutated. The Circle Officer has also issued correction slip in favour of the petitioners. The petitioners are regularly paying rent to the State Government.

7. With the above observation/direction, the present writ application stands disposed of.

(Purnendu Singh, J)

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