

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11593 of 2024

1. Nand Kishore Sharma Son of Late Laxminarayan Singh, resident of village - Derni, P.O. Sutihar, P.S. Derni, District - Saran at Chapra, presently residing at 412A, Nehru Nagar, Gali No. 23, P.S. Patliputra, District- Patna, the Adhyaksh of Shree Ram Janki Maharaj Birajman Mandir Nyas Samiti, Village- Vishambharpur, P.O. Sutihar, P.S. Derni, District- Saran at Chapra.
2. Lakshman Singh Son of Late Iswari Singh, Resident of Village - Vishambharpur, P.O. Sutihar, P.S. Derni, District- Saran at Chapra, the Secretary of Shree Ram Janki Maharaj Birajman Mandir Nyas Samiti, Village - Vishambharpur, P.O. Sutihar, P.S. - Derni, District- Saran at Chapra.
3. Anil Kumar Singh, Son of Late Subedar Singh, Resident of Village - Vishambharpur, Near Kothiya, P.O. Sutihar, P.S. Derni, District - Saran at Chapra, the Koshadhyaksh of Shree Ram Janki Maharaj Birajman Mandir Nyas Samiti, Village- Vishambharpur, P.O. Sutihar, P.S. Derni, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Saran at Chapra, District- Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra, District- Saran at Chapra.
5. The Sub-Divisional Officer, Sonapur, District- Saran at Chapra,
6. The Deputy Collector Land Reforms, Sonapur, District- Saran at Chapra,
7. The Circle Officer, Dariyapur, District- Saran at Chapra,
8. The Station Head Officer, Dariyapur, District- Saran at Chapra,
9. The Bihar State Board of Religious Trusts, Vidyapati Marg, Patna through the Administrator-cum-Superintendent.
10. The Chairman, The Bihar State Board of Religious Trusts, Vidyapati Marg, Patna.
11. The Administrator, The Bihar State Board of Religious Trusts, Vidyapati Marg, Patna.
12. The Authorized Assistant Superintendent, The Bihar State Board of Religious Trusts, Vidyapati Marg, Patna.
13. Umesh Dikshit @ Bhola Dikshit Son of Late Surendra Nath Dikshit, resident of Village- Vishambharpur, P.O. Sutihar, P.S. Derni, District- Saran at Chapra.

... .. Respondent/s

Appearance :



For the Petitioner/s : Mr.Vijay Kumar Singh, Advocate
For the Respondent/s : Mr.Addl. Advocate General- 12

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 05-08-2024 Heard Mr. Vijay Kumar Singh, learned counsel for the petitioner, Mr. Ravi Ranjan who represents the respondent, Religious Trust Board (henceforth for short 'the Trust Board') as also Mr. Shailendra Kumar Dwivedi, learned State Counsel.

2. The petitioners have prayed for grant of the following reliefs:

(i) for issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to immediate remove the illegal construction over the land of the Shree Ram Janki Maharaj Birajman Mandir Nyas Samiti situated in village-Bishambharpur, P.O. Suithar, P.S. Dorni, District Saran as constructed by the Respondent no.13 in connivance with the local Officers such as Respondent nos.5,6,7 and 8;

(ii) for issuance of an appropriate



writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to cancel the Jamabandi illegally made in favour of the family of the Respondent no.13 and after making correction the same is being entered in the name of Shree Ram Janki Maharaj Birajman Mandir Nyas Samiti on the ground that Shree Kishundeo Ji executed Samarpannama of the land measuring an area of about 11 Bighas vide Samarpannama in the name of Ram Janki vide Deed No. 109 dated 19.01.1943;

(iii) for issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to take suitable action against the Respondent no.13 and other officers/ employees on the ground that the



Respondent no.13 succeeded to create Jamabandi in the name of his family in connivance with the staff of Circle Office and he also subsequently made construction over the land even after repeated request of the Respondent Board and petitioners to stop the construction over the land in question;

(iv) for issuance any other appropriate writ/writs ,order/orders, direction/directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.

3. The petitioners claim to be the 'Presidents' of 'Shree Ram Janki Maharaj Birajman Mandir' Vishambharpur in the district of Saran, Chapra and the grievance put forward is that respondent no.13 is sitting over the temple/constructed house and virtually has taken a piece of land in possession.

4. Mr. Ravi Ranjan, learned counsel appearing on behalf of 'the Trust Board' submits that in terms of section 43 of



the Bihar Hindu Religious Trust Act, 1950 (henceforth for short 'the Act, 1950') in case of any property dispute, they should have moved before the Tribunal which has been constituted and is functioning.

Section 43 of 'the Act, 1950' read as follows:

"Either the Board or with the permission of the Board, any religious trust or any two persons, interested in the affairs of a particular trust, may file an application with the Tribunal for the recovery of the alienated property or for the removal of encroachment or for the decision on the property disputes referred to it under any provision of the Act: Provided that if the Board fails of take a decision on the permission within eight weeks from the receipt of the application, the permission will be deemed to have been granted.

(2) Upon the receipt of such application the Tribunal shall hold a summary enquiry in the manner prescribed and



pass an appropriate order.

(3) The execution of any order of the Tribunal shall be made through the District Administration which shall comply with the order of the Tribunal.

(4) Any party aggrieved by an order of the Tribunal made under this Act may, within ninety days from the date of the order, file an appeal before the High Court whose decision shall be final."

5. At this stage, learned counsel for the petitioner submits that he may be permitted to withdraw the petition to move before the concerned Tribunal as stipulated under ‘the Act 1950’.

6. Granting the said liberty, the writ petition stands disposed of.

(Rajiv Roy, J)

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