

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15583 of 2022

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1. Shashi Bhushan Mishra, S/o Late Kapil Deo Mishra, r/v Painal, P.O. Painal, P.S. Bihta, Distt. Patna.
 2. Ravi Kumar, S/o Late Gorakhnath Mishra, r/v Painal, P.O. Paina, P.S. Bihta, Distt. Patna.

... .. Petitioner/s

Versus

1. Bihar State Board of Religious Trust through the President Vidyapati Marg, P.S. Kotwali, Distt. Patna.
2. The President, Bihar State Board of Religious Trust, Vidyapati Marg, P.S. Kotwali, Distt. Patna.
3. Shri Akhilesh Kumar Jain, the President of Bihar State Board of Religious Trust, Vidyapati Marg, P.S. Kotwali, Distt. Patna.
4. The Incharge Assistant Superintendent, Bihar State Board of Religious Trust, Vidyapati Marg, P.S. Kotwali, Distt. Patna.
5. Sri Amar Nath Chaudhary, the Incharge Assistant Superintendent, Bihar State Board of Religious Trust, Vidyapati Marg, P.S. Kotwali, Distt. Patna.
6. Sri Munna Mishra @ Nand Gopal Mishra, S/o Late Ishwar Mishra, r/v Painal, P.S. Bihta, Distt. Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate
For the Board	:	Mr. Shekhar Singh, Advocate
For respondent no.6	:	Mr. Jitendra Kumar Roy, Advocate Mr. U. R. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 11-03-2024

Heard Mr. Ranjan Kumar Dubey, Mr. Kumar Gaurav, learned counsel appearing on behalf of the petitioners; Mr. Shekhar Singh, learned counsel for the Board and Mr. Jitendra Kumar Roy along with Mr. U. R. Singh learned counsel for the respondent no.6.

2. Learned counsel for the petitioners submitted that the deed of endowment dated 26.01.1945 is a document on which the petitioners have claimed their right to manage the affairs of



the Gopalji Radhakrishna Thakurbai Painal, Patna. Petitioners claimed that they are the decedents of of Kedarnath Mishra, who had executed the deed of endowment dated 26.01.1945 in favour of Sri Gopalji RadhaKrishna Ji, Painal, P.S. Maner. The deed has not been challenged by the complainant/Munna Mishra @ Nand Gopal Mishra (respondent no.6) but he has made allegation by filing complaint dated 26.08.2020 (Annexure 3) before Religious Trust Board alleging that the affairs of the *Math* in question is being misused by the petitioners.

3. It has been informed in the writ petition that the said Munna Mishra @ Nand Gopal Mishra (respondent no.6) is one of the family members of the petitioners and also decedents of Kedar Nath Mishra. In paragraph no.7 of the supplementary affidavit, genealogical table has been given, which shows that the ancestor of Kedar Nath Mishra was Komal Mishra and the petitioners are decedents of Satanarayan Mishra. Komal Mishra had two sons, Aditya Mishra and late Ramkhilawan Mishra.

4. The grievance of the petitioners is that Munna Mishra, is son of Ishwar Mishra and Ishwar Mishra is decedent of Satyanarayan Mishra, and he is having blood relationship with the petitioners, who has made frivolous complaint for



claiming his right by suppressing the aforesaid admitted facts, claiming himself to be the villager and has tried to interfere with the affairs of the endowment, which is a private trust, owned by the petitioners' family. In the impugned order dated 05.07.2022, passed by the President of Bihar State Board of Religious Trust, no finding in this regard, nor the said fact has been discussed in the order. In above background, the learned counsel submitted that the petitioners were deprived to inform the President of the Board, as such, the impugned order requires to be interfered with, considering the fact that out of five members of the Committee, in terms of the endowment deed dated, 26.01.1945, mandatorily one member is required to be the descendant of Kedar Nath Mishra. The Committee formed by the President has deliberately acted beyond its jurisdiction by interfering with the affairs of the private trust.

5. *Per contra*, Mr. Jitendra Kumar Roy, learned counsel appearing on behalf of the respondent no.6, has submitted that he, being the family member and also a villager, made a complaint before the Board to take appropriate action. The Board has passed a reasoned order, taking into consideration the illegality committed by the petitioners in connivance with the other members of the Trust. Learned counsel further submitted



that if the petitioners are aggrieved in any manner that they were not afforded due opportunity of hearing then in that case, they must have pleaded the same before the President of the Board.

6. However, learned counsel further submitted that considering the records of the case, it is admitted by the petitioners that they had inspected the records and the question whether they were informed about the date of hearing on 30.06.2022 and 05.07.2022 can only be seen from the entire order-sheet relating to hearing.

7. Mr. Shekhar Singh, learned counsel appearing on behalf of the Board, submitted that the petitioners had participated and due opportunity of hearing was given to them and only after the petitioners had avoided to appear in the hearing, the President of the Board, on the basis of the materials available on record including the affidavit filed on behalf of the petitioners, has passed the speaking and reasoned order dated 05.07.2022 which cannot be considered to have been passed behind the back of the petitioners.

8. Heard the parties.

9. In the present case, from the perusal of the pleading, it appears that none of the villagers or any of the four members, in any manner, had complained at any point of time against the



petitioners. Petitioners' case is that they were not given due opportunity of hearing to defend their case and had filed their objection against the complaint filed by the respondent no.6 regarding mismanagement of the trust and not with respect that the Trust is a public trust and the constitution of Committee is against the mandate of endowment deed dated, 26.01.1945. The said endowment deed unless is declared void or set aside will remain in force unless its legality is questioned before a competent civil court.

10. Taking into consideration the recital of endowment deed dated 26.01.1945, it appears that the ancestors of the petitioners and respondent no.6 are same and the respondent no.6 has not denied the fact that he is not one of the family members of the petitioners, who are the descendants Late Kedar Nath Mishra. Said named ancestor of the petitioners had executed the deed of endowment dated 26.01.1945 for running the endowment by constituting a committee of five members, in which he has made it mandatory that one of the members of the committee shall be the family member and four members will be of the said village. The President, ignoring the said recital of deed and giving only finding that the petitioners and respondent no.6 are descendants of executant of the



endowment deed, has erred in constituting a fresh Committee without there being a decree from a competent court, declaring endowment deed dated 26.01.1945 as void could not have disturbed the constitution of the committee, which mandates that one member of the Committee must be the family member of the descendants of the Kedar Nath Mishra from the said deed.

11. The President on the complaint of the respondent no.6 has not gone into this vital aspect and directed to constitute Managing Committee. Moreover, the present endowment deed was prepared more than 70 years ago and it is a settled law that there is a presumption in favour of such endowment or deed. It is apposite to reproduce paragraph 19 of the judgment of the Apex Court passed in **Sree Sree Iswar Gopal Jieu Thakur v. Pratapmal Bagaria**, reported in **1951 SCC 208**, and the same is reproduced hereinafter:-

“...It is now well settled that where the validity of a permanent lease granted by a shebait is called into question a long time after the grant, although it is not possible to ascertain fully what the circumstances were in which it was made, the court should assume that the grant was made for necessity so as to be valid beyond the life of the grantor”

12. The impugned order dated 05.07.2022, by which the President of the Board has declared the Trust as a public trust has not gone in the above aspect of the matter and above



settled principle of law cannot be sustained. The parties may avail the appropriate remedy in accordance with law. It is made clear that parties must give the exact date of death of late Kedar Nath Mishra, the executant of deed dated dated 26.01.1945 to justify their stand.

13. The writ petition is disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2024
Transmission Date	NA

