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09.05.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 25503 of 2023

Sri Samir Kumar Mahato
Vs.
The State of West Bengal & Ors.

Ms. Kaberi Ghosh(Dey)
...for the petitioner

Mr. Rwitendra Banerjee,
Mr. Sougata Mitra,
Mr. Nikhil Gupta,
Ms. Subhasri Chatterjee,
Mr. Subhadeep Maitra
...for the private respondents

1. Affidavit-of-service filed in Court today be kept on record.
2. The petitioner claims to be a priest, who has been, through generations, in charge of the subject temple, situated in the District of Purulia. In the said temple, it is submitted, devotees come from several places and huge funds are channelized through the temple. A committee formed of certain members of the area is in charge of operating the temple.
3. Recently, the petitioner has been ousted illegally from the office of priest of the said temple. It is alleged that there has been defalcation of funds contrary to public interest, for which the petitioner

approached the respondent-authorities, but to no effect.

4. Learned counsel appearing for the private respondents controverts the allegations made in the writ petition on facts as well as law.

5. Upon hearing learned counsel for the parties, it is evident that the petitioner has sought to vindicate rights completely civil in nature, coming within the ambit of Section 9 of the Code of Civil Procedure.

6. Although the general public may furnish offerings to the temple, that itself does not make the dispute involved herein partake the character of a public law dispute.

7. Since evidence is also required to be adduced and appreciated in respect of the plea taken by the petitioner that the petitioner has been illegally ousted from the temple, appropriate remedy can only be afforded to the petitioner by a competent civil court. Moreover, no legal right of the petitioner has been infringed insofar as the alleged inaction by the respondent-authorities is concerned.

8. Accordingly, W.P.A. No. 25503 of 2023 is disposed of by granting liberty to the petitioner to approach the competent civil court with the grievances and issues raised in the present writ petition.

9. If so approached, the said civil court shall decide all issues involved and take up interlocutory applications, if filed by the petitioner, independently without being influenced in any manner whatsoever by any of the observations made herein.

10. It is made clear that this Court has not gone into the merits of the allegations and counter-allegations between the parties.

11. There will be no order as to costs.

12. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)