

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5129 of 2021**

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1. Meera Devi Wife of Late Brahmanand Goswami Resident of Village- Ghasi Tola Marangi, P.O. and Police Station- Mansahi, District- Katihar.
  2. Manoj Kumar Goswami Son of Late Brahmanand Goswami Resident of Village- Ghasi Tola Marangi, P.O. and Police Station- Mansahi, District- Katihar.
  3. Prem Ranjan Goswami Son of Late Brahmanand Goswami Resident of Village- Ghasi Tola Marangi, P.O. and Police Station- Mansahi, District- Katihar.
  4. Niru Kumari Wife of Rakesh Kumar Mishra, Daughter of Late Brahmanand Goswami Resident of Quarter No. 110/2B Amna, S.P. Street, Police Station- Amna, Kolkatta- 700009.
  5. Nisha Kumari Wife of Rahul Goswami, Daughter of Late Brahmanand Goswami Resident of Village- Bhramarpur Police Station- Bihpur, District- Bhagalpur.
  6. Anju Kumari Daughter of Late Brahmanand Goswami Resident of Village- Ghasi Tola Marangi, P.O. and Police Station- Mansahi, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the District Magistrate, Katihar.
2. The District Magistrate Katihar.
3. The Additional Collector Katihar.
4. The Sub- Divisional Magistrate Katihar.
5. The Anchal Adhikari Mansahi, District- Katihar.
6. The Bihar State Board of Religious Trust Vidyapati Marg, Patna-1 through its President.
7. The Superintendent Bihar State Board of Religious Trust, Vidyapati Marg, Patna-1.
8. Dinesh Giri Son of Late Doman Giri Goswami Resident of Village- Ghasi Tola Marangi, P.O. and Police Station- Mansahi, District- Katihar.
9. Sanjeev Kumar Singh Son of Late Sushil Kumar Singh Resident of Village- Ghasi Tola Marangi, P.O. and Police Station- Mansahi, District- Katihar.
10. Administrator, Bihar State Board of Religious Trust, Vidyapati Marg, Patna - 1.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Jitendra Prasad Singh, Sr. Adv.<br>Mr. Suresh Pd Singh                                                          |
| For the Respondent/s | : | Mr. Chandra Kant<br>Mr. Sudhanshu Prakash<br>Mr. Bimal Kumar Jha<br>Mr. Ajit Kumar Singh<br>Mr. Sanjeev Kumar Singh |
| For the State        | : | Mr. Prashant Pratap, GP-2                                                                                           |
| For the Board        | : | Mr. Ganpati Triwedi, Sr. Adv.                                                                                       |

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

- 9      06-01-2026                      1.    The petitioners have filed the present writ application for setting aside the order, dated 11.12.2020, passed by the President, Bihar State Board of Religious Trust (in short “Trust Board), by which he has directed the Anchal Adhikari to record the name of “Sri Shivji” as raiyat of the land of the temple, namely, Marangi Shiv Mandir, Ghasi Tola, Katihar, and for removal of encroachment over the subject land and further directed for constitution of committee of 07 members for management of the temple, in question.
2.    The background fact of the case relates to the property and management of Shiv Mandir, Ghasi Tola, Marangi, Police Station Mansahi, District Katihar, which was donated and constructed by one Late Babu Lal Singh and Late Domangiri Goswami was appointed as Sevayat for offering pooja in the temple.
3.    Late Babu Lal Singh executed a registered deed of



“Khorposh”, dated 19.12.1953, in favour of the Sevayat with respect to land donated for temple, the details of which are mentioned in paragraph nos. 6 and 7 of the writ application.

4. In the registered deed, the line of succession has been described to the extent that after death of Domangiri Goswami, his heirs will offer the pooja in temple and also manage and maintain the temple, in question.

5. The case of the petitioners is that since then the petitioners, being heirs of the original Sevayat i.e. Late Domangiri Goswami, are maintaining and managing the temple.

6. In the year 1988, the Trust Board issued a direction appointing the Committee for management of the property of the temple and the then Deputy Collector Land Reforms (DCLR) was appointed as Chairman of the Committee.

7. The husband of the petitioner no. 1-Late Brahmanand Goswami, being aggrieved by the interference of the Board, filed a suit vide Application No. 01 of 1989 for declaration that the orders issued by the Board are illegal and inoperative and also for declaration that the plaintiff is the Sevayat of the temple. The further relief in the suit was for injunction not to interfere in the management of the property of the temple.



**8.** The Trial Court passed the judgment vide judgment, dated 27.04.2007, and decree, dated 14.05.2007, declared that the plaintiff-Brahmanand Goswami is not the Sevayat of the temple and rather his brother, namely, Dinesh Goswami, is Sevayat and further declared that the order of Special Officer of the Trust Board, dated 12.05.1988 and order of the DCLR, dated 28.02.1989, are illegal and without jurisdiction and in-operative.

**9.** Late Brahmanand Goswami i.e. the husband of the petitioner no. 1 challenged the judgment and decree passed by the Trial Court in Title Suit No. 01 of 1989 in appeal before this Court against the finding that he was not the Sevayat of the temple. The appeal was registered as first appeal, bearing F. A. No. 183 of 2007, which was subsequently converted into Misc. Appeal No. 493 of 2013. Brahmanand Goswami died on 27.09.2017 and the petitioners have been substituted in the Misc. Appeal No. 493 of 2013, vide order, dated 22.11.2017, passed by this Court.

**10.** In the miscellaneous appeal, an application under Order 39 Rules 1 & 2 of the Civil Procedure Code was filed by the petitioner restraining the respondent no. 17 i.e. Dinesh Giri from interfering in the management of property of



the temple, in which, after hearing the parties, an order of status quo, dated 27.07.2007, was passed till disposal of the appeal by this Court. Subsequently, the Superintendent of the Trust Board issued a letter, bearing letter no. 604, dated 21.08.2018, directing the District Magistrate, Katihar, to make an enquiry about the management of the property of the temple and to furnish names of 11 hindu members for constitution of trust committee. In pursuance of the aforesaid letter, the Additional Collector, Katihar, issued another letter, bearing letter no. 1155, dated 03.11.2018, directing the Anchal Adhikari, Mansahi, to make an enquiry and submit a report for constitution of committee.

**11.** The petitioners being aggrieved by the action of the Board and Additional Collector, Katihar, in interfering in the management of the temple, filed a writ petition before this Court in CWJC No. 5714 of 2019, which was disposed vide order, dated 21.11.2019, with liberty to the petitioners to file a representation before the President of the Board and the President of the Board was directed to consider the grievance of the petitioners and materials placed by the petitioners and to take appropriate decision.

**12.** The petitioners filed the representation on



11.12.2020 before the President of the Board and the President, by order, dated 11.12.2020, directed the constitution of committee, removal of encroachment and recording of name of Sri Shiv Ji in the record of rights

**13.** Mr. Jitendra Prasad Singh, learned senior counsel for the petitioners, argued that the matter is sub-judice before this Court in Misc. Appeal No. 493 of 2013, in which, status quo order has been passed pertaining to the subject land, but the President of the Trust Board has directed for removal of encroachment from the property which was subject matter of the suit and the miscellaneous appeal. According to learned counsel, the impugned order passed by the President of the Trust Board for removal of encroachment is violative of the status quo order passed by this Court.

**14.** On the other hand, Mr. Chandra Kant and Mr. Ajit Kumar Singh, learned counsel for private respondents jointly argued that the Trust, in question, is a public trust and was registered as a public trust in the year 1962 having registration no. 1013. Since, it is a public trust and the petitioners are the encroachers, as such, the President of the Trust Board has rightly passed the order for removal of encroachment from the trust property.



**15.** Mr. Chandra Kant further pointed out that once the trust has been declared as Public Trust by the President of the Trust Board by the impugned order and nature of the trust has not been challenged by the petitioners under Section 28 of the Bihar Hindu Religious Trusts Act, 1950, as such, the dispute regarding management and functioning of the Trust cannot be agitated before this Court by way of writ jurisdiction.

**16.** I have heard learned counsel for the parties and gone through the materials available on records, including the impugned order passed by the President of the Trust Board.

**17.** The dispute in the Trust arose way back in the year 1988, when the Trust Board directed for appointment of committee for management of the Trust and this led to the filing of the suit, bearing Title Suit No. 01 of 1989 by the husband of the petitioner no. 1 i.e. Late Brahmanand Goswami. The details of trust property are mentioned in the schedule of property appended to the plaint, having Khata No. 35 situated at Narainpur Thana No. 115, PS Pranpur, with an area of 2.16 decimals and the area of 0.40 decimals and 0.08 decimals pertaining to Plot No. 25 and 26 having Khata No. 32, situated at Ghasitola Thana No. 11, PS Pranpur, is also part of Schedule 'B' of the plaint.



**18.** The Schedule 'B' of the plaint refers to the land belonging to the Trust and was the subject matter of the suit. The suit was decreed with the finding that Late Brahmanand Goswami was not the Sevayat and further declared that the order passed by the Special Officer of the Religious Trust Board, dated 12.05.1988 and DCLR, dated 28.02.1989, are illegal and without jurisdiction.

**19.** Late Brahmanand Goswami and subsequently the petitioners challenged the judgment and decree passed by the Trial Court to the extent holding that Late Brahmanand Goswami was not the Sevayat. The appeal was initially registered at first appeal, bearing F. A. No. 183 of 2007, however, the same was converted into Misc. Appeal No. 493 of 2013.

**20.** Undisputedly, this Court passed an order of status quo in the miscellaneous appeal on 27.07.2017 directing all the parties to maintain status quo in respect of the disputed property till disposal of the appeal. The disputed property is described in the Schedule 'B' of the plaint. The status quo order passed by this Court, therefore, pertains to the disputed trust property, which include the plot no. 25 and 26 having an area of 0.40 decimals and 0.08 decimals and also the property having an



area of 02.16 decimals in Khata No. 35.

**21.** The President of the Trust Board by the impugned order has directed for removal of encroachment from the aforesaid land upon which the status quo order passed by this Court in miscellaneous appeal operates.

**22.** The grievance of the petitioners at present before this Court is with regard to the order of the President of the Trust Board directing for removal of encroachment.

**23.** This Court finds that the impugned order directing for removal of encroachment during the pendency of the miscellaneous appeal prima facie violates the status quo order.

**24.** Accordingly, the portion of the impugned order directing for removal of encroachment from the subject land is in the teeth of interim/status-quo order passed by this Court and shall be kept in abeyance till the disposal of Misc. Appeal No. 493 of 2013.

**25.** Insofar as other finding including regarding the nature of trust, this Court is not expressing its opinion and the parties shall be at liberty to take recourse to appropriate remedy in accordance with law.

**26.** With the aforesaid observations and directions,



this writ application is, accordingly, disposed.

**(Anil Kumar Sinha, J)**

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