

(2002) 12 PAT CK 0002

In the Patna High Court

Case No : L.P.A. No. 7/95

Acharya Mahanth Raj Ballabh Das

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 10-12-2002

Acts Referred:

Bihar Hindu Religious Trusts Act, 1950 — Section 55

Citation : (2003) 1 PLJR 346

Hon'ble Judges : Ravi S. Dhavan, C.J.; R.N. Prasad, J

Bench : Division Bench

Advocate : A.P. Jittu, Najmul Hoda, for the Appellant; Narain Singh and Ram Charitar Singh for Responent No. 5, for the Respondent

Final Decision : Dismissed

Judgement

1. It is rather surprising that the appeal belongs to an ecclesiastical order but is fond of litigating.

2. This Letters Patent appeal has been filed against an order dated 5.12.1994 on C.W.J.C. No. 2842/90, Acharya Mahanth Raj Ballabh Das v. The State of Bihar and Ors. In effect, the writ petition was held to be not maintainable. The learned Judge declined to go into the merits of the controversies and relegated the parties to their remedies u/s 55 of the Bihar Hindu Religious Trust Board Act, 1950. It is relevant to note on what exactly the order was on which a challenge was made to it on the writ petition. The order impugned is referred to in paragraph 1 of the writ petition. It is dated 18.4.1990 passed by the District Judge, Vaishali in Misc. Case No. 7/88 (Annexure-5 to the writ petition). After the order on the writ petition holding that the petition was not maintainable as a clear-cut alternative remedy by way of an appeal is available under the Act this Letters Patent Appeal should not have been filed. Apparently the Petitioner has answered this question for himself. Taking the hint that the writ petition was not maintainable, subsequently the Appellant filed Misc. Appeal No. 14/95, Acharya Mahanth Raj Ballabh Das v. The Special Officer, Bihar State Board of Religious

Trusts and Anr. This appeal was filed u/s 55 of the Act aforesaid.

3. The appeal was heard on merits and was dismissed by a judgment dated 12.4.1996. The question of the present Letters Patent Appeal, being considered does arise. As the writ petition was not maintainable in the face of a statutory alternate remedy, the writ petition was dis-missed. The submissions on the writ petition cannot be continued in a Letters Patent Appeal, which also is not maintainable. In fact, the Appellant even acted on the order of the writ petition and did file an appeal under the Act, aforesaid, and the said appeal was considered on merits. This Letters Patent Appeal is a parallel proceeding and an abuse of the process of the Court.

4. Dismissed.