

(2023) 10 PAT CK 0066

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 12045 Of 2023

Ajiteshwar Das Chela

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 31-10-2023

Acts Referred:

Bihar Hindu Religious Trusts Act, 1950 — Section 13, 43, 43A

Citation : (2023) 10 PAT CK 0066

Hon'ble Judges : Harish Kumar, J

Bench : Single Bench

Advocate : Jagannath Singh, Md. Ghulam Mustafa, Jyoti Joshi, Sunil Kumar Mandal, Neelam Kumari, Ganpati Trivedi, Ritik Shah

Final Decision : Disposed Of

Judgement

1. Heard Mr. Jagannath Singh, learned counsel appearing on behalf of the petitioner. The State is represented by Ms. Neelam Kumari. Learned counsel for the Bihar State Board of Religious Trust is also present.

2. The petitioner who claimed to be sewait of Ram Janki Mandir, Village Rampur, Block Hanuman Nagar, P.S. Moro, District Darbhanga has filed the present writ petition seeking quashing of the orders dated 11.10.2022 and 03.04.2023 declaring the Ram Janki Mandir, Rampur Kalyan, District Darbhanga to be a public religious temple and further directed for registration of the same in the register of Religious Trust Board without issuing notice to the petitioner or affording any opportunity of hearing and without looking into the documents in respect to the properties owned by the "Temple" in question.

3. It is submitted on behalf of the petitioner that he was declared as sewait by his predecessor Late Mahant Fulena Das by a registered deed dated 13.09.1991. He further submits that one late Bahadur Pandey dedicated the land of an area of 10 Bigha 5 Kattha 14 Dhur to Shri Thakur Ram Janki idol by a registered deed of dedication on 28.05.1958.

4. The land being Khatiani land, was registered in the name of deity, through its Sewait Mahant Fulena Das and the petitioner has been paying rent to the Government of Bihar after getting the land mutated in favour of Shri Thakur Ram Janki through Mahant Ajiteshwar Das. Earlier also on being aggrieved by the action of the Bihar State Board of Religious Trust, removing the petitioner from Sewaitship and appointing a temporary trustee, the petitioner had preferred CWJC No. 4630 of 1993 wherein the learned Division Bench of this Court having considered the claim of the petitioner, has been pleased to dispose of the writ petition vide its order dated 28.07.1993 in the following manner :

"The grievances of the petitioner are that the impugned order dated 10.2.93, as contained in annexure '2' as also the letter dated 4.3.93 issued by the respondent no. 4, as contained in annexure '3' have wrongly been issued, inasmuch as no ground has been s-ta-ted for removal of the trustee, even for a temporary period. The further contention is that the property in question is not belonging to the trust.

The law in regard to temporary trustee as is contained in section 13 of the Bihar Hindu Religious Trust Act, from which it is evident that a trustee can be appointed only upon a tentative decision as to whether the property in question belonged to a religious trust or not. Such a decision would not be final as the same would be subject to the decree passed by a court. In this view of the matter, the Trust does not come to a finding as to whether the property in question belonged to a trust or not, the question of appointment of a temporary trustee arise.

This application is allowed and the Board is directed to come to a decision upon basis of the materials on record whether the property in question belongs to the Board or not."

5. It is further submitted that since then, the petitioner has been discharging all the work of Sewaitship, without any interference made by the Board, however, all on a sudden as almost after three decades in the year 2022, on complaint made by some unscrupulous persons, the Board came up with the impugned order(s) as contained in Annexure P/7.

6. It is the specific case of the petitioner that before passing the impugned order the petitioner has neither been provided any opportunity of hearing nor any show-cause notice has been served upon him and the impugned order(s) has been passed in complete defiance of the order of the Division Bench of this Court, apart from ignoring the documents/deeds in relation to the properties of the temple in question.

7. Per contra learned counsel for the State as well as the Board while refuting the contention of the petitioner has submitted that since the petitioner has appropriate efficacious alternative remedy before the Tribunal as constituted under Section 43 of the Bihar Hindu Religious Trust Act, 1950, thus, he may approach there by filing on appropriate application, in terms of section 43A of the

'Act, 1950'.

8. It is also submitted that since the temple in question has already registered with the Board, as is evident from the representation filed on behalf of the petitioner, thus the petitioner has only remedy to approach before the Tribunal for determination of the nature of the property in question.

9. Considering the submissions made on behalf of the parties and taking note of the relief(s) as sought for by the petitioner, this Court deems it appropriate to dispose of the writ petition with a liberty to the petitioner to approach before the Tribunal which has been vested with the power of the Civil Court under the Code of Civil Procedure to look into the grievance of the petitioner pertaining to the dispute regarding the nature of trust property and resolve the same.

10. However, taking note of the fact that earlier also the petitioner had come before this Court and the order was passed way back on 28.07.1993 but now after 29 years the decision has been taken by the Board unilaterally without affording any opportunity of hearing to the petitioner with regard to the determination of the nature of the temple/property in question. Thus, till the filing of the appropriate application/petition before the Tribunal, the respondent Board shall not act in furtherance of the order dated 11.10.2022 and 03.04.2023. It is made clear that the petitioner would file the appropriate application alongwith all the documents in support of his claim within four weeks from today.

11. It is needless to observe that after the application being filed on behalf of the petitioner, the Tribunal shall also consider the claim of the petitioner for interim order on the basis of materials available on record, preferably within further period of four weeks.

12. In view thereof, the present writ petition stands disposed off with the aforesaid observation and liberty.