

(2018) 11 PAT CK 0051

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10256 Of 2011

Bihar Hindu Religious Trust Board

APPELLANT

Vs

Arjun Singh And Ors

RESPONDENT

Date of Decision : 30-11-2018

Acts Referred:

Code Of Civil Procedure, 1908 — Section 151, Order 1 Rule 10
Bihar Hindu Religious Trusts Act, 1950 — Section 2, 50(1), 50(2)

Citation : (2019) 1 PLJR 251

Hon'ble Judges : Sanjay Kumar, J

Bench : Single Bench

Advocate : Shekhar Singh, Arbind Kumar Singh, Dronacharya, Ram Nibash Pd.,
Baidyanath Thakur, Ramashankar Kumar, Prabhakar Thakur

Final Decision : Allowed

Judgement

1. I.A. No.8459 of 2018 has been filed for expunging the name of respondent no.3 Sukhdeo Singh from cause title.

2. It has been submitted that the heirs of respondent no.3 are not interested to contest this case.

3. The prayer as made is allowed and the name of respondent no.3 is expunged from cause title at the risk of the petitioner.

4. I.A. No.8459 of 2018 stands allowed.

5. This writ application has been filed for quashing the order dated 07.07.2005 passed by learned Subordinate Judge, Sheikhpura in Title Suit No.77 of

1977 whereby and whereunder petition filed by the petitioner under Order 1 Rule 10 read with Section 151 of CPC as well as Section 50(2) of Bihar

Hindu Religious Trust Act was rejected.

6. Heard learned counsel for the petitioner and the respondents.

7. It appears that the plaintiff filed the aforesaid suit to get 13 sale deeds executed by Premdas (opposite party no.7) with respect to 12 acres land of Sherpur Bari Sangat within a period of one year i.e. in 1974-75 as null and void. The plaintiff before filing the said suit applied for permission before Bihar Hindu Religious Trust Board (petitioner) to file the suit for getting the sale deed cancelled and after taking permission the said suit was filed in the court of Subordinate Judge. In the said suit the respondent nos.2 and 3 were impleaded as plaintiffs to the suit. The respondent no.14, who was one of the plaintiff, filed a petition to withdraw the suit which was allowed and the suit was dismissed as withdrawn. The other co-plaintiff filed a Civil Revision No.788 of 1988 before this court which was allowed on 03.01.1992 and the suit pending before the court revived. It further appears that the plaintiff filed a petition on 05.03.1984 with a prayer to issue notice to the petitioner under Section 50(1) of Bihar Hindu Religious Trust Act, 1950. The defendants raised objection and after hearing both sides, notices were issued to the petitioner.

8. The learned counsel for the petitioner in the above background submitted that the petitioner is a necessary party to the suit as the suit property is under the control and supervision of Bihar Hindu Religious Trust Board.

9. The learned counsel for the respondents, on the other hand, submitted that the definition of "Hindu" mentioned in Section 2 of Bihar Hindu

Religious Act shows that the Hindu Religious Trust Board has no jurisdiction over the property belonging to Sikh community and so the provision of

Bihar Hindu Religious Trust Act is not applicable. He further submitted that the Bihar Hindu Religious Trust Board had wrongly and illegally given

sanction to file the suit. The said defect was detected and the order to file title suit was recalled by the OSD of Bihar Religious Trust Board. In view

of above fact the Bihar Hindu Religious Trust Board is not necessary party to the suit and this writ application is fit to be dismissed.

10. The learned counsel for the petitioner submitted that in the Trust in question other Deities are also worshiped by the sect of Hindu community. The

plaintiffs have no objection in impleading the petitioner as defendant to the suit. In this regard, the learned counsel cited ruling reported in 1998 (3)

PLJR 13 wherein this court has held as follows:-

"Having regard to the scheme envisaged in the Code of Civil Procedure,

the defendant has no locus standi to challenge addition of a party. If

the right to oppose addition is conceded to him, a priori, he may also have the right to seek addition of a person who is not a party, against the wish of

the plaintiff.â??

11. In the case in hand, I find that the plaintiffs have supported the case of petitioner (Bihar Hindu Religious Trust Board) for adding them as party to

the suit. The petitioner was initially noticed under Section 50(2) of the Bihar Hindu Religious Trust Act and the petitioner had earlier given sanction to

the plaintiffs to file the present suit. The objection of defendant as regards control of petitioner over the Trust property will be adjudicated only in

presence of this petitioner.

12. In view of above discussions, I find that the petitioner is a necessary party to the suit. The order refusing to implead the petitioner as party to the

suit particularly when the plaintiffs had no objection, is not sustainable. The impugned order is accordingly set aside and the court below is directed to

implead the petitioner as party to the suit.

13. This writ application is accordingly allowed.