
(2007) 06 OHC CK 0015

In the Orissa High Court

Case No : Writ Petition (C) No. 9199 of 2004 and 5522 of 2005

Gulei @ Golap Samal

APPELLANT

Vs

Shaikh Saffiqueuddin and Others

RESPONDENT

Date of Decision : 18-06-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Orissa Hindu Religious Endowments Act, 1951 — Section 69

Citation : (2007) 1 OLR 1066 Supp

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : Damodar Deo and Associates, for the Appellant; Sk. Aziz and Associates for Opposite Party No. 1, for the Respondent

Judgement

A.S. Naidu, J.—A petition filed under Order 1, Rule 10 CPC by the Plaintiff in T.S. No. 31/1997 pending in the Court of 1st Addl. Civil Judge (Sr. Division), Cuttack to implead the Commissioner of Endowment as a party)" has been rejected by order dtd. 24.3.2004. A subsequent petition with the very same prayer has again been rejected by the Court below by order dtd.13.8.2004. Being aggrieved the Plaintiff has filed these writ applications.

2. Admittedly, the properties involved in the suit originally belonged to the Institution of Sri Sri Laxminarayan Jew Bije, Ramgarh, Mansing Patna commonly known as Mastara Math. The lands stand recorded in the name of the Executive Officer of Mastara Math Trust Board. During pendency of the suit which is one for declaring that the sale deeds dtd. 20.11.1964 and 10.3.1983 are illegal and void and for other ancillary relief, a petition was filed under Order 1, Rule 10 CPC by the Plaintiff to implead the Commissioner. The said petition was rejected by an order dtd. 24.3.2004. Subsequently Anr. petition was also filed under Order 1, Rule 10 CPC seeking similar relief by the Plaintiff which was rejected by order dtd. 13.8.2004. Being aggrieved the Petitioner has approached this Court.

3. Admittedly the record of rights reveals that the lands stood recorded in the

name of Sri Sri Laxminarayan Jew Bije, Ramgarh, Mansingh Patna, Mastara Math Trust Board represented by Executive Officer. The said institution is not a party. Even otherwise in consonance with Section 69 of the Orissa Hindu Religious and Endowments Act whenever the trustee of any religious institution is sued in any civil or Revenue Court in respect of any property belonging to or given or endowed for the purpose of any religious institution, notice of such suit shall be given by the Court concerned to the Commissioner at least a month before commencement of the hearing. The impugned order reveals that the Court below has not kept in mind the aforesaid provisions. As the lands in dispute originality belonged to a religious institution, according to this Court a notice should be issued to the Commissioner of Endowments so as to avoid any collusion among the parties inter se. The Court below shall also frame an issue as to whether the suit is maintainable in the absence of the trust board of Mastara Math.

With the aforesaid observations, these Writ Petitions are disposed of.