
(2007) 11 PAT CK 0028
In the Patna High Court
Case No : CWJC No. 7903 of 1998

Mahanth Ram Kishore Das

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 29-11-2007

Acts Referred:

Bihar Hindu Religious Trusts Act, 1950 — Section 32, 32(3)

Citation : (2008) 1 PLJR 733

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Advocate : Ram Suresh Roy and Prem Nath Singh, for the Appellant; A.P. Jittu and Ambuj N. Choubey, for the Respondent

Judgement

Navaniti Pd. Singh, J.—Shri Ram Suresh Roy, learned Senior Counsel appearing on behalf of the petitioner prays for and seeks permission to withdraw I.A. No. 6228 of 2007 to institute and prefer separate and independent proceedings in relation to the relief sought for in the said I.A. Leave is granted. The I.A. is dismissed as not pressed. This writ application has been filed ostensibly against a notification issued in terms of Section 32 of the Bihar Hindu Religious Trust Act, 1950 whereby the management of the Trust was taken over by the Bihar Hindu Religious Trust Board and a Management Committee was constituted. This notification was issued on 1.1.1990. The petitioner challenged the said notification in terms of Section 32(3) before the District Judge, Patna. After hearing the parties, the District Judge, Patna dismissed his application which became the final order in terms of Section 32(4) of the said Act. The present writ application has been filed challenging the order of the District Judge as well as challenging the applicability of the Act to the petitioner on the ground that the petitioner's Trust is not a Public Trust. Shri A.P. Jittu, learned counsel for the Religious Trust Board takes a preliminary objection as to maintainability of the writ application in terms of Section 55(1) of the Act which clearly provides that an appeal shall lie to the High Court against every order passed by the District Judge in this regard. He submits and rightly so that when a specific statutory

remedy was chosen by the petitioner in terms of Section 32(3) then he must continue to avail of the statutory remedy in terms of Section 55(1) of the Act and appeal being provided, the writ application should not be entertained.

2. Having heard the learned counsel for the parties, in my view, the objection as raised is to be accepted. There being a statutory remedy of appeal, the petitioner would be well advised to prefer an appeal in terms of Section 55(1) of the Act. The writ application is, thus, not maintainable as such.

3. On this being recorded, Shri Ram Suresh Roy, learned Senior Counsel appearing for the petitioner prays that the writ application having been pending in this High Court for almost a decade may now be converted into a miscellaneous appeal. Two weeks' time is granted to the petitioner to take necessary steps for converting the writ application into a miscellaneous appeal. The petitioner would be at liberty to file an application for condonation of delay in view of the fact that the writ application has been pending in this High Court for all these years. The writ application, thus, stands disposed of to be converted into a miscellaneous appeal.