

(2001) 11 PAT CK 0016
In the Patna High Court
Case No : C.W.J.C. No. 7984 of 1999

Mishri Lal Mahto

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-11-2001

Acts Referred:

Bihar Hindu Religious Trusts Act, 1950 — Section 54
Constitution of India, 1950 — Article 226

Citation : (2002) 1 PLJR 195

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Advocate : Mithilesh Kumar, for the Appellant; Ashok Kumar, for Resps. 1 to 3 and S.P. Verma, for Resp. No. 5, for the Respondent

Judgement

R.S. Garg, J.—Heard the parties.

2. The Petitioner is aggrieved by the orders as contained in Annexure-1 and Annexure-2 directing the Petitioner to surrender all his rights including the property in favour of the Respondent Board because the Trust Board was of the opinion that the property in dispute was a Public Trust.

3. The grievance of the Petitioner appears to be that before passing any order against the interest of the Petitioner no opportunity of hearing was afforded to him. The further grievance of the Petitioner is that the principles of natural justice have been violated thoroughly by the Board in the procedure and in recording the finding against the interest, of the Petitioner. Therefore order passed by the Trust Board deserves to be quashed. On the other hand, learned Counsel for the Trust Board raising a preliminary objections submits that if proper alternative and efficacious remedy is available to a party who is aggrieved with the order of the Trust Board declaring the property to be Public Trust property then writ is not maintainable. According to him Bihar Hindu Religious Trust Act, 1950 (the "Act" for short) is a complete Code and Section 54 of the said Act protects the right of aggrieved person. According to him catena of

decisions say that such a person can always make an application u/s 54 of the Act to the Court which after following the procedure and hearing the parties shall record its final findings. According to him present is not a case where the High Court is required to interfere under Article 226 of the Constitution of India.

4. I have heard the parties and perused the record.

5. Placing reliance upon Annexure-3, document relating to alleged dedication the learned Counsel for the Petitioner submits that a bare perusal of the said documents would show that the property was dedicated to the private trust and the finding of the Trust Board are illegal and contrary to Annexure-3. In the opinion of this Court present is not the proper forum where such grievance is required to be raised. What shall be interpretation of the deed, whether it was creating a private or public trust whether property was dedicated to the temple by creating a trust or was kept under the management and control of a particular member of family, are all questions to be considered in Title Suit. The submission of the learned Counsel for the Petitioner that without hearing the Petitioner the Respondent Trust Board has recorded the findings in its own favour therefore the same deserve to be quashed, should not unnecessarily detain this Court. The Act confers the power and jurisdiction upon the Board to make preliminary enquiry and thereafter record a finding that the particular property is private property or Public Trust property. The High Court sitting under Article 226 is not required to record particular findings. The findings recorded by the Trust Board can be challenged u/s 54 of the said Act. The authority while arriving to a particular conclusion it has committed gross illegalities or has violated statutory provisions or procedure only then the High Court would be entitled to interfere in the matter and not otherwise.

6. After hearing all the parties at length I am unable to hold that this Court can interfere in the writ jurisdiction. If advised, the Petitioner may make proper application u/s 54 of the Act before the competent Court which shall be obliged to decide the matter in accordance with law.

This application is accordingly disposed of.