
(2012) 09 JH CK 0001

In the Jharkhand High Court

Case No : WP (C) No. 4171 of 2009 with IA No. 2724 of 2012

Parmeshwar Sharma

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Citation : (2013) 3 JLJR 598

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Vishnu Kr. Sharma, for the Appellant; Binoda Nand Tiwary for the State, for the Respondent

Judgement

Narendra Nath Tiwari, J.—Though I.A. No. 2724 of 2012 has been listed today in order to substantiate the claim and also to support the prayer made in the I.A., the petitioner addressed the Court also on merit of W.P.(C) No. 4171 of 2009. In view of the above, with the consent of the parties the writ petition as well as the I.A. have been heard together and are being disposed of by this order. The petitioner is aggrieved by the order of the Deputy Commissioner, Dumka dated 7.8.2009, whereby the Deputy Commissioner has directed to comply with the order issued by the Jharkhand Religious Trust Board by letter No. 270/04 dated 2.11.2004 and 307/04 dated 15.12.2004.

2. According to the petitioner, the said order has been challenged in Title Suit No. 1/2007, now pending in the Court of Additional District Judge-1, Dumka. The said order has been issued directing the Circle Officer, Dumka to implement the order passed by the Jharkhand Religious Trust Board during pendency of the said suit. Since the Title Suit is pending, the said order of learned Deputy Commissioner is wholly arbitrary and illegal. Learned Deputy Commissioner should not have passed such administrative order. The Circle Officer, Dumka, on the basis of the said order, has issued a notice to the petitioner asking him to remain present at Shree Ramchandra Thakurwari, Dumka for the purpose of handing over charge to Shri Raj Kumar Sharma-respondent No. 7 vide his Memo

No. 882 dated 31.8.2012. The petitioner has filed I.A. praying for stay of the said order.

3. Learned counsel appearing on behalf of the petitioner submitted that since the matter is sub-judice in the Court of Additional District Judge-I, Dumka, the order passed by the Deputy Commissioner dated 7.8.2009 as also the order issued by the Circle Officer dated 31.8.2012 are wholly arbitrary, illegal and without jurisdiction. The said orders also amount to usurping the jurisdiction of the competent civil court and are wholly illegal and are liable to be quashed by this Court.

4. The writ petition has been opposed by filing counter affidavit by the State-respondent. It has been stated, inter alia, that there was dispute regarding the Sewaitship of Shree Ramchandra Thakurwari, Dumka between the petitioner and respondent No. 7. The matter was contested before the Jharkhand State Religious Trust Board. The Religious Trust Board by its letter No. 270/04 dated 2.11.2004 addressed to the Chairman-cum-Sub-Divisional Officer, Dumka constituted a temporary Trust Committee and directed the petitioner and the respondent No. 7, who are cousins, to perform the rituals of the said Thakurwari month by month, on alternate term.

5. The petitioner has filed Title Suit No. 1/2007 in the Court of District Judge, Dumka which is now pending in the Court of 1st Additional District Judge, Dumka. The petitioner has not produced any stay order of the said court.

6. In the meanwhile, the respondent No. 7 complained to the Deputy Commissioner alleging lapse on the part of the Sub-Divisional Officer and others in implementing the order of Jharkhand State Religious Trust Board.

7. On the said complain and on the basis of the order of the Religious Trust Board, the Deputy Commissioner has directed the Sub-Divisional Officer, Dumka as well as the concerned Circle Officer to implement the order of the State Religious Trust Board, if there is no order of stay by any competent court. By the impugned order the Deputy Commissioner has not decided any claim of the party. The impugned order only intends to implement the order of the State Religious Trust Board. There is no illegality or arbitrariness in the said order. The petitioner, instead of filing appropriate petition in the pending Title Suit hastened to file this writ petition. Since the Title Suit is pending for the same subject matter between the same parties, parallel proceeding by way of a writ petition is not maintainable and the petition is liable to be dismissed.

8. I.A. No. 2724 of 2012 has been filed by the petitioner seeking stay of the said orders passed by the Deputy Commissioner, Dumka/Circle Officer, Dumka for implementing the order of the State Religious Trust Board. The same is also liable to be rejected for the aforesaid reason.

9. Having heard learned counsel for the parties and considered the facts and materials on record, I find substance in the submissions of learned counsel for

the respondents.

10. It has been submitted by the petitioner that he has filed the suit challenging the order of the Jharkhand State Religious Board. The said suit is pending in the Court of learned 1st Additional District Judge, Dumka. If the petitioner requires any interim order in the meanwhile, he should have made such prayer before the said court. Two parallel proceedings for the same cause are not competent and is against public policy. The writ petition, as such, is not maintainable and the I.A. filed praying an interim stay of the order passed by the Deputy Commissioner and the Circle Officer, Dumka is also not competent.

11. For the reasons aforementioned, this writ petition as well as I.A. No 2724/2012 cannot be entertained and are, accordingly, dismissed/rejected.

12. The petitioner is, however, at liberty to approach the court, where the Suit is pending, for appropriate interim order, if so advised. It is made clear that this Court has not gone into the merit of the respective claim of the parties and learned court below shall not be influenced by any observation appears to be on merit of the case.