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**(2015) 05 PAT CK 0021**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 7431 of 1994

Ram Jankiji and Others — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

**Date of Decision :** 07-05-2015

**Acts Referred:**

**Citation :** (2015) 05 PAT CK 0021

**Hon'ble Judges :** V.N. Sinha, J

**Bench :** Single Bench

**Advocate :** Kamal Nayan Choubey, Senior Advocate, Santosh Kumar and Yogendra Kumar Dwivedy, for the Appellant; Rajesh Kumar, A.C. to G.P. 10, Advocates for the Respondent

**Final Decision :** Allowed

## Judgement

V.N. Sinha, J.—Heard learned counsel for the petitioners, State. None appears for the intervenor respondent who claim that their possession over the lands-in-question on the basis of red cards issued to them is being cancelled by the authorities on the basis of the order dated 25.03.1990 passed in C.W.J.C. No. 9658 of 1989. Earlier after 25.03.1990 the same matter had come to this Court in C.W.J.C. No. 2780 of 1993 which was disposed of under order dated 22.06.1993 by the Division Bench, as contained in Annexure-5. Operative portion of the said order is quoted hereinbelow:-

"It is now well settled that the deities are juristic persons. However, the question as to whether the deity installed in a temple is entitled to grant of a separate unit or not depends on fate of each case, it is also well settled that where a dedication is made in favour of a trust or a temple, the trust or the temple, as the case may be, is entitled to grant of a separate unit in respect of the number of the deities installed therein.

In order to make a valid endowment a complete dedication of the property is a must. We, however, feel that the Board of Revenue, being a final court of fact, should have construed the aforesaid deeds of endowments and pass an appropriate order. In this view of the matter, the impugned order dated 20.2.1993, as contained in annexure ''G'' is set aside and the matter is remitted to the Additional Member, Board of Revenue for passing a fresh order after taking into consideration the aforesaid decision on endowments.

This application is disposed of with the above observations."

2. In compliance of the said order the parties appeared before Additional Member, Board of Revenue who having heard them disposed of the matter under resolution dated 27.07.1994, Annexure-7, operative portion whereof is quoted hereinbelow:-

"Perused the two deeds of endowment in question, filed by the petitioners. Deed No. 305 dated 3.4.1917 has been executed by Mostt. Jiwarakhan Kuer and deed No. 306 dated 3.4.1977 has been executed by Sri Hirdayanand Tisary. Both Mostt. Jiwarakhan Kuer and Sri Hirdayanand Tiwary have clearly stated in their respective deed that they are endowing their lands in favour of the temple. None of the deeds of endowment in question indicates that the lands have been endowed in favour of any deity. Since the endowments are in favour of temple the deities, installed therein will not be entitled to separate units as already held by the Hon''ble High Court, Patna in the case of Sri Ram Janki Jee and others Vrs. The State of Bihar and others reported in 1994(1) B.L.J. 649.

In the result this revisions fails and is dismissed."

3. Learned counsel for the petitioners deities has assailed the said order with reference to the averments made in the two registered endowment deeds dated 03.04.1917, as contained in Annexures 1, 2 to the application. Relevant portion of the two endowment deeds creating the endowment, consecrating the deities, indicate that under the two endowments the dedicator consecrated five deities namely Sri Ram Jankiji, Sri Lakshmanji, Sri Shivaji and Parvatiji, Sri Radhaji and Sri Krishnaji.

4. In the circumstances, the finding recorded by the Additional Member, Board of Revenue under resolution dated 27.07.1994, Annexure-7 that endowments are in favour of temple, not the deities, is contrary to the dedications, consecrations made in the two endowment deeds. In this connection learned counsel for the petitioners has also referred to the judgment of the Supreme Court in the case of Ram Jankijee Deities and Others Vs. State of Bihar and Others, AIR 1999 SC 2131 : (1999) 3 JT 592 : (1999) 4 SCALE 36 : (1999) 5 SCC 50 : (1999) 3 SCR 442 : (1999) AIRSCW 1878 : (1999) 5 Supreme 405 .

5. Counsel for the State opposed the submission made on behalf of the petitioners but could not establish that the dedications were not made in favour of the deities. In the circumstances, in the light of the dedication made by the dedicator and the law laid down by the Supreme Court I have no option but to set aside the impugned resolution dated 27.07.1994, passed by Additional

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Member, Board of Revenue, Annexure-7, which is quashed with direction to the authorities to grant five units to the five deities dedicated, consecrated under the two registered endowment deeds dated 03.04.1917. It goes without saying that as a necessary consequence of this order, order passed by the respondent Additional Collector, Collector prior to the passing of the impugned resolution by Additional Member, Board of Revenue dated 11.01.1989, 16.02.1992, Annexures-3, 4 is also quashed.

6. The writ petition is, accordingly, allowed.

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