
(2001) 09 PAT CK 0023
In the Patna High Court
Case No : C.W.J.C. No. 1471 of 2001

Ramji Gope and Another	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 03-09-2001

Acts Referred:

Citation : (2001) 4 PLJR 348

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : R. Grighaye, in C.W.J.C. Nos. 1471 of 2001 and Badri Nr. Singh, in C.W.J.C. No. 9239 of 2001, for the Appellant; A.P. Jittu, for Bihar Hindu Religious Trust Board and S.D. Yadav, for State, for the Respondent

Judgement

1. These matters have come for examination of the Court on several proceedings, on C.W.J.C. No. 1471 of 2001. These proceedings were on 2.2.2001, 8 August, 2001, 16 August, 2001, 27 August, 2001. In C.W.J.C. No. 9239 of 2001 there were proceedings on 23 April, 2001, 24 April, 2001 and 8 August, 2001. On some occasions the record of two writ petitions were taken up together. The Court discovered during course of proceeding that there was yet another record relating to the subject matter whether the property in dispute is a public charitable trust or a public land or a private temple. There was another record on the same subject matter. This was C.W.J.C. No. 12926 of 2000 filed by Yuva Kala Manch through one Bijet Kumar Bannerji against the State of Bihar and others.

2. C.W.J.C. No. 1471 of 2001 has two Petitioners--one is Ramji Gope and other is Manju Banerjee. Manju Banerjee is no other person than the sister-in-law of Bijet Kumar Banerji. She is the wife of one Ranjit Banerjee. Both Bijet Banerji and Ranjit Banerji are the sons of R.N. Banerji. The last writ petition C.W.J.C. No. 9239 of 2001 has been brought by one Vijay Narayan Prashant. He describes himself as an ex-member of the Legislative Assembly and working President of Rashtriya Chetna Parishad. In this petition there are several

Respondents. There is one Respondent who apparently seems to be common to all the three petitions. This is one Ram Sakal Singh Yadav. Ram Sakal Singh Yadav was also Respondent in yet another petition. The 4th petition was brought by one Babulal Paswan.

3. The record of this petition is C.W.J.C. No. 555 of 1978. This was decided on 8 December, 1978. This petition refers to a title suit having been filed in the matter relating to the same property. There were three title suits: (a) T.S. No. 23 of 1954. This gave rise to Title Appeal No. 39/1 of 1978. (b) Then there was a T.S. No. 136 of 1946. (c) Then there was a Title Suit No. 151/23 of 1948/54 revealing that another proceeding perhaps was merging whereas the suit was decreed by a judgment and decree dated 8 August, 1955, applications for setting aside the decree being Misc. Case Nos. 113/55, 17/58 and 88/58 were all dismissed. One Miscellaneous appeal travelled up to the High Court and was dismissed on 6 December, 1960. There was proceeding before the revenue court also. T.S.No. No. 136 of 1946 was decreed in terms of compromise, (d) Yet another T.S. No. 29/9 of 1976-77 which was filed to set aside the compromise decree was dismissed on 24 February, 1978 and an appeal as Title Appeal No. 39/1 of 1978 was dismissed on 24 June, 1978 by Additional Subordinate Judge-IX of Patna.

4. The question which arises is that on the same subject matter an action was filed under Order I, Rule 8 of the CPC in a representative capacity which partakes the nature of an action on behalf of the public. These were suit proceedings referred to above. These proceedings were determined.

5. After this, bringing this Public Interest Litigation (PIL) to the High Court repeatedly is an abuse of the jurisdiction of the High Court and abuse of the process of the Court. It is worse as a PIL. In this matter the Court is not in a position to certify that litigants and their counsel are all in concert though those who brought the actions to Court took it to appeal and yet came to the High Court again and again four times in suit proceeding and three times as a PIL. In a PIL can anyone of them between the parties and the lawyers pretend that they do not know all the other litigations Part of the details of earlier litigation are contained in the judgment of 8 December, 1978 rendered in C.W.J.C. No. 555 of 1978 Basulal Paswan and Ors. v. State of Bihar and Ors. The fly-sheet of the High Court shows S.C.A. No. 178/78 being filed and that this perhaps was determined by order of 12.12.1981.

6. Counsel appearing on behalf of Religious Trust Board Mr. A.P. Jittu has submitted a report on the history of the litigations which is also on record. Indeed the writ jurisdiction of the High Court has been abused so also the process of the Court. A lot of the time has been engaged. If the Court had made a mistake in opening the matter and taken it to hearing it would have unsettled settled matters. The Court cannot condone the exercise which has been repeated and brought to the High Court as a PIL.

7. After having assessed and apprised the entire situation on record now counsel

for the Petitioners contended that they be permitted to withdraw the petition. The Court needs to place matters on record that in these proceedings in no uncertain terms the Court had indicated that if it finds the process of the Court has been abused it will issue notice to the Petitioners and their counsel alike.

8. As better sense has prevailed and litigants' counsel would like to withdraw the writ petition, the Court will permit them the exercise to withdraw. Hereinafter wherever they may intend to agitate their causes is a matter with which the Court can neither foresee nor injunct. But, as a PIL has been resorted to repeatedly on the same cause specially when these matters have been the subject matter of civil proceedings before the court below, the Petitioners on C.W.J.C. No. 1471 of 2001 and C.W.J.C. No. 9239 of 2001 will deposit costs with the Registrar General being Rs. 100/- on each petition within a period of one week from today so that this matter is not repeated again in reference to the same subject matter and if these costs are not deposited then any State counsel or Government Pleader wherever he may be and this includes the counsel on behalf of Religious Trust Board, should a proceeding be taken up in any court of Bihar will be able to place this matter of the Court that the party be not heard until the cost is deposited and refer the matter to the High Court for yet higher costs beyond the token awarded.