

**Yugal Kishore Singh @ Yugal Kishore Singh Son of Late Praduman Singh and Jagdish Prasad Son of Late Saudagar Sao at Present Managing Trustee of Sarv Mandal Devi Trust Vs. the State of Bihar and Prem Shankar Choudhary Son of Late Ram Chandra Choudhary, Former Managing Trustee of Sarv Mangala Devi Trust**

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**Court :** Patna

**Decided On :** Apr-05-2010

**Judge :** Sheema Ali Khan, J.

**Appellant :** Yugal Kishore Singh @ Yugal Kishore Singh Son of Late Praduman Singh and Jagdish Prasad Son of Late

**Respondent :** The State of Bihar and Prem Shankar Choudhary Son of Late Ram Chandra Choudhary, Former Managing Tru

**Judgement :**

Sheema Ali Khan, J.

1. Heard learned Counsel for the petitioners, the Opposite Party No. 2 and the A.P.P. appearing on behalf of the State.

2. The dispute arises between the present Trustee and ex-trustee of the Sarv Mangala Devi Trust. The petitioners are the Office bearers & Members of the Bihar Religious Trust who have been appointed to run the Trust. The dispute is that the Bihar Religious Trust considers the trust to be a public trust whereas the ex-trustees are claiming that the trust is a private trust. A suit has been filed which is Title suit No. 211 of 1999 by the ex-trustees of the Sarv Mangala Devi Trust which is still pending. The interim orders passed in the suit have travelled upto the High Court and lastly, the Opposite Party No. 2 had challenged the order by which the Bihar Religious Trust had constituted a committee vide Memo No. 2398 dated 19.08.1999 to run the Trust.

3. This order was challenged before the High Court and finally this Court by order dated 19.03.2010 passed in Misc. Appeal No. 122 of 2007 has directed the District Judge to conclude the Title Suit No. 370 of 1989 within a period of four months.

4. In the interim period, the Opposite Party No. 2 being aggrieved by the way in which the officers and its members were managing the trust filed Complaint Case No. 205 of 2000. Paragraphs 13, 15, 16, 17, 18, 19, 20, 21 & 23 contain the allegations against the members of the trust. In short, the allegations are that they are misappropriating the money of the Sarv Mangala Devi Trust, for which the Opposite Party No. 2 has given information to the Sub Divisional Officer. The Sub Divisional Officer has not taken any action on the report of the Opposite Party No. 2, which has resulted in the filing of the present complaint case. At paragraph 13, it is said that the petitioners are forcibly asking the tenants (shopkeepers & others) to make payment of the rent. At paragraph 15, it is said that the money collected between 14.09.1998 to 18.07.1999 was Rs. 53,230/-

whereas according to the Opposite Party No. 2, it would be 2,34,000/-. It is also stated that the money so collected after 15.07.1999 should be above Rs. 1,80,000/- which has not been deposited in the bank. It is also alleged that seven years ago, the Opposite Party No. 2 had taken steps for the development of the fishery facilities. However, as soon as the petitioners started looking after the property, they have sold the fishes and not deposited the amount in the account of the trust. It is alleged that they have created false document in order to justify their actions and have not deposited the rent collected or granted receipt to the tenants.

5. All these aspects infact would have to be considered by the duly constituted auditors to find out the manner in which the trust is being run. For the present, it cannot be said that there is misappropriation of the money specially in view of the fact that there is a dispute with regard to who should run the trust and the fact that the Sub Divisional Officer did not consider it proper to take any steps when a complaint was filed by the informant.

6. These matter, if at all, ought to be considered by the Bihar Religious Trust Board itself, and the very fact that a complaint has been filed before the Court and the matter has not been brought to the notice of the authorities of the Bihar Religious Trust Board for examination is indicative of the reason for filing the complaint case.

7. At this stage, the institution of the case is obviously for the reason that there is a dispute pending for running and management of the trust.

8. The Opposite Party No. 2 will have the liberty to bring the so-called anomalies to the notice of the Bihar Religious Trust Board who is the competent authority to decide whether there has been any misappropriation till such time as it is declared to be public/private trustee.

9. Accordingly, this application is disposed of with the aforesaid observations and directions.

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