

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14887 of 2014

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Anjuman Islahul Musalimin of Khagaria Town through its Secretary Md. Israfil
S/o Late Doman Miyan, resident of Mohalla - N.A.C. Road, Ward No.11, P.O. +
P.S. + District – Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Department of Home,
Secretariat, Patna.
2. The Secretary of Ministry of Welfare Department, Government of Bihar,
Secretariat, Patna.
3. The Commissioner, Munger, Commissioner - Munger
4. The Collector, Khagaria, District - Khagaria
5. The Deputy Collector Land Reforms, Khagaria, District - Khagaria
6. The Sub Divisional Officer, Khagaria, District - Khagaria
7. The Executive Engineer, Rural Engineering Organisation works Division,
Khagaria, District - Khagaria
8. The Circle Officer, Khagaria, District - Khagaria,

Respondents 1st Set.

9. Murari Mahato S/o Late Suresh Mahto, Resident of village - Bhadas, P.S.
Muffasil (Khagaria), District - Khagaria, at present Residing in Mohalla - Baluahi,
ward No..., P.S. District – Khagaria.
10. Mohan Sah S/o Late Dayanand Sah. village / Mohalla - Hajipur, Ward No. 18
Khagaria, P.O. + P.S. + District – Khagaria.

.... Respondents 2nd Set.

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Appearance :

For the Petitioner/s : Mr. Phulen Yadav, Advocate

For the Respondent/s : Mr. Sanjay Kumar, A.C. to G.A.5

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CORAM: HONOURABLE THE CHIEF JUSTICE

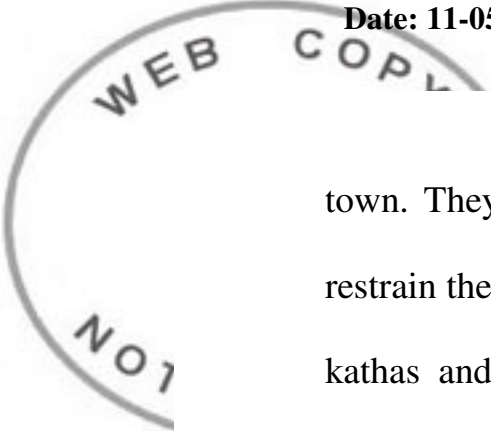
And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-05-2015



The petitioner is an association of Muslims in Khagaria town. They filed this writ petition in public interest, with a prayer to restrain the respondents not to interfere with their possession over the 11 kathas and 10 dhurs of land in Tauzi No.525, Khata no.06, Khesra No.169 of Hazipur revenue village, Khagaria District. According to them, the land is being utilized as Kabristan, i.e. grave-yard, and taking advantage of absence of any protection to the land, respondents 9 and 10 are encroaching upon it. Reference is made to various revenue records.

Heard Sri Phulen Yadav, learned counsel for the petitioner and Sri Sanjay Kumar, learned Assistant Counsel to Government Advocate-5, for the respondents.

Even from the averments in the writ petition, it is evident that there are claims and counter claims as between the petitioner, on the one hand, and the respondents 9 and 10, on the other hand. It is only when the land is recorded as grave- yard in the revenue records, and the possession is with the concerned community, that a possibility may exist for protection thereof. When there is a serious dispute as to manner in which the land has been dealt with, over the past several decades, the only course open for the persons or the organization claiming rights over the land would be to file a suit before the competent Court of law

and to pray for necessary reliefs. Since the petitioner happens to be the community of Muslims, and the land is stated to be grave yard, another option for the petitioner is to approach the Wakf Tribunal.

Therefore, the writ petition is disposed of leaving it open to the petitioner to avail the remedy of filing a suit before a Civil Court or a petition before the Wakf Tribunal, duly impleading the affected parties.

Interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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