

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1970 of 2015

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Shamim Sultana wife of Late Jamilur Rahman, resident of village-Sujawalpur, P.S.-Sakra, District-Muzaffarpur, at present residing at Mohallah-Mithanpura Razzak Colony, P.S- Mithanpura, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Director, Primary Education, Bihar, Patna.
2. The District Magistrate cum Collector, Muzaffarpur.
3. The Sub-Division Magistrate, East Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Circle Officer, Sakara, District - Muzaffarpur.
6. The District Education Officer, Muzaffarpur.
7. The District Programme Officer (Establishment), Muzaffarpur.
8. Shri Sanjeev Mishra son of not known to the petitioner posted as In-Charge headmaster, Urdu Primary School Sujawalpur, P.S- Sakra, District- Muzaffarpur.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Fakhruddin Ali Ahmad, Advocate

For the Respondent/s : Mr. Prashant Pratap, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 10-08-2015 Heard the parties.

Whereas it is the complaint of the petitioner that the respondents in the construction of the Primary Urdu School at Sujawalpur in the District of Muzaffarpur have encroached on the portion of land which has been allotted to the petitioner in the family partition, these arguments have been contested by the respondents by filing a counter affidavit in which it is stated that an area of 40 and half dhurs from the south of the plot in question i.e. Plot No. 872 of Khata No. 56 having an area of 87 decimals, was donated for the purpose of the school in question through different gift deeds by the land owners.

Mr. Deo Kumar Pandey, learned Assisting Counsel to GP-6 with reference to Annexure-B & C to the counter affidavit which is a

measurement report conducted by the Circle Karamchari and the Circle Officer along with the Station House Officer and local residents including the brother of the husband of the petitioner, submits that upon measurement of the area it has stood confirmed that the school was being built up in the area so gifted for the purpose.

Learned counsel for the petitioner though seeks to dispute the measurement on grounds that in absence of the petitioner, the brother of the husband of the petitioner was not empowered to certify the same, in my opinion, in view of the two measurement reports on record and there being clear dispute on facts as regarding the area under the gift deed as well as the area said to be allotted to the petitioner, the remedy for the petitioner in such disputed issues of fact would lie before the civil court of competent jurisdiction not only for the purpose of determination of the area in share of the petitioner but also for determination of the area so gifted for the purpose and whether the school has exceeded the same.

The writ petition is disposed of with the liberty aforementioned.

(Jyoti Saran, J)

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