

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15115 of 2014

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Asheshwar Sharma, Son of Late Yadunandan Sharma, Resident of Mohalla-Deodharpur (Vivekanand Colony), Ward No. 10 (Old), New 13, P.O. & P.S.- Tekari, District- Gaya

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Nagar Vikas Department, Government of Bihar, Vikas Bhawan, Patna
3. The Principal Secretary, Department of Revenue, Government of Bihar, Vikash Bhawan, Patna
4. The Director, Department of Revenue, Government of Bihar, Patna
5. The District Magistrate, Gaya
6. The Sub Divisional Officer, Tekari, Gaya
7. The Nagar Panchayat, Tekari through Executive Officer.
8. The Circle Officer, Tekari, Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Bishnu Kant Dubey, Advocate
Mr. Ranjit Kumar, Advocate

For the Respondents : Mr. Mrigendra Kumar, A.C. to G.A.-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER
(Per: HONOURABLE THE CHIEF JUSTICE)

2 04-05-2015 This writ petition demonstrates the level to which the facility of Public Interest Litigation has been reduced to. It has been converted into an avenue to earn popularity.

It appears that there is a *Masjid* in the Nagar Panchayat, Tekari in Gaya district of the State of Bihar. On 13.3.2014, some persons belonging to the minority community submitted a representation to the Principal Secretary of the Urban Development Department, State of Bihar stating that



there exists 5 Acres of land in Khata No.110, Plot No.131 of the village and in the Khatian of 1915 it was shown as the property of *Masjid*. According to the representation, the land has been encroached by many private individuals and even houses have been constructed over it. Alleging that steps are being taken by encroachers to grab the other private land, the complainant requested the Principal Secretary to take steps to remove the encroachment.

The petitioner, who is neither the signatory to the representation nor the member of the *Masjid*, has filed this writ petitioner with a prayer to direct the respondents to remove the encroachment over the land, referred to above. By filing I.A. No.206 of 2015, he has furnished a list of 33 persons, who are said to have encroached the said land, and made a request to take appropriate steps in this regard.

Heard Shri Bishnu Kant Dubey, learned counsel for the petitioner and Shri Mrigendra Kumar, learned Assistant Counsel to Government Advocate No.11 for the respondents.

Even if the signatories to the representation dated 13.3.2014 were to have filed this writ petition, it would not have been appropriate for this Court to issue specific directions. The reason is that as many as 33 persons are said to have constructed

the houses. Unless the nature of rights is determined, the question of removing the encroachment does not arise. Further, in case the land was held by the *Masjid*, it becomes a waqf property and in such case, it falls within the ambit of Wakf Act. The Public Interest Litigation at the instance of an unconnected person cannot be of avenue to pass order which is relatable to a decree for eviction in a properly constituted suit.

The writ application is dismissed.

The interlocutory application, if any, shall also stand disposed of. However, there shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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