

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16486 of 2010

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1. Kapileshwar Singh
2. Rajeshwar Singh
Both sons of Late Raj Kumar Subheshwar Singh resident of Rambag
Palace, P.S.- L.N.M.U. Campus, District- Darbhanga

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Secretary Art, Culture And Youth
Department, Government Of Bihar, New Secretariat, Patna
2. Deputy Secretary Art, Culture And Youth Department, Government By
Bihar, New Secretariat, Patna
3. Director, Archeology, Patna
4. Superintendent, Archeologist, Patna Circle, Patna
5. District Magistrate, Darbhanga
6. Sub-Divisional Officer, Darbhanga
7. Anchal Adhikari, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Dwivedi, Sr. Advocate
Mr. Sachidanand Choudhary, Advocate

For the Respondent/s : AC to GP 25

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 04-05-2015 Heard Sri Shashi Shekhar Dwivedi, learned senior
counsel, who was assisted by Sri Sachidanand Choudhary,
learned counsel for the petitioners and learned AC to GP No. 25.

The petitioners, invoking writ jurisdiction of this court
under Article 226 and 227 of the Constitution of India, have
prayed for quashing of notice dated 17th August, 2010 issued
under the signature of respondent no. 2 and also to quash entire
proceedings for which notice has been issued vide Annexure -
'12' to the writ petition which has been issued under the

provisions of Bihar Ancient Monuments and Archaeological Sites Remains and Art Treasures Act, 1976 (hereinafter referred to as the "Act"), inviting objections as to why the Fort namely Darbhanga Raj Fort may not be declared as an ancient monument.

Sri Dwivedi, learned senior counsel for the petitioners, assailing the notice has firstly argued that there is no provision as prescribed in Annexure – '12' i.e. Section 3 Sub Section 12 and as such, the notice has got no significance. It has further been argued that the premises in question may not be considered as ancient monument as defined under Section 2(a) of the Act. It has been argued that only those premises /buildings etc. can be declared as ancient monument which has been in existence for more than 100 years. He submits that existence of Darbhanga Raj Fort is not since more than 100 years, and as such, it may not be declared as ancient monument.

In this case a counter affidavit has been filed on behalf of the respondent / State wherein a preliminary objection has been raised regarding the maintainability of the present writ petition. It has been argued that by issuance of Annexure – '12' only objections were invited and if any person, who is having any objection, would be at liberty to file objection and only thereafter, any action will be taken.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. So far the provision mentioned in Annexure – ‘12’ to the writ petition is concerned, the court is of the opinion that keeping in view the provisions contained in Section 3(1) of the Act, the State Government is well empowered to issue such notification. It hardly matters as to whether in place of Section 3 Sub Section 1 in Annexure – 12, it has been mentioned as Section 3 Sub Section 12 of the Act. Moreover, by issuance of Annexure – 12 only objections were invited. If the petitioners are in a position to satisfy the authority concerned that the Fort in question was not in existence for about 100 years, they would be at liberty to file appropriate objection before the authority concerned in terms of Annexure - ‘12’ to the writ petition. At this juncture, it would not be appropriate for this court to interfere with the same. Accordingly, the petition stands dismissed.

If so advised, petitioners may file objection in terms of Annexure – 12. In view of dismissal of this writ petition interim order, dated:11.10.2010 stands automatically vacated.

(Rakesh Kumar, J)

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