

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2853 of 2015

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1. Mahanth Sidhi Giri Chela of Late Sambhu Giri @ Mahanth Kripa Shankar Giri
resident of village - Marukia, P.S. Andhrathari, District - Madhubani

.... Petitioner

Versus

1. The State of Bihar, through Collector, Madhubani
2. The Collector, Madhubani, District - Madhubani
3. The Senior Superintendent of Police, Madhubani
4. The Sub-Divisional Officer, Jhanjharpur, District - Madhubani
5. Binod Giri @ Binod Thakur, Purportedly Chela of Late Mahanth Ishwar Giri
Marukia Asthan, village - Marukia, P.S. Andhrthari, District - Madhubani

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey, Advocate.

For the Respondent/s : Mr. DR. A.K. Upadhyaya, SC-20

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 19-02-2015

Heard Mr. Shashi Shekhar Dwivedi learned Senior Counsel
for the petitioner and Mr. Upadhyaya the counsel for the State.

Impugned in this writ application is the notice (Annexure-1)
issued by the respondent- Sub Divisional Officer, Jhanjharpur, calling upon the
petitioner to file reply with respect to the land which has been said to be in
illegal possession of the petitioner. Indisputably, the petitioner has filed reply
thereto.

The contention of the petitioner is that the land was declared
as the land in the hands of the Marukia Math of which the petitioner is the
Mahanth being chela of Sambhu Giri @ Mahanth Kripa Shankar Giri. The Sub
Divisional Officer has no right to issue such notice for dispossessing the
petitioner from the land which he holds by virtue of being the Chela of the
recognized Mahanth. It has further been contended on behalf of the petitioner

that although the petitioner has filed reply but no final order thereon has been passed and the Sub Divisional Officer has verbally directed to remove his possession over the property.

Learned counsel for the State has, however, contended that the petitioner has only been called upon by the impugned notice to appear before the authority and demonstrate his title and possession over the subject land which, according to the writ petitioner, belonged to Marukia Math who was proceeded against in a ceiling proceeding and certain lands were allowed to be held by the said Marukia Math. Drawing attention of the Court to paragraph no.15, it has been submitted that a dispute between one Binod Giri @ Binod Thakur and the petitioner with regard to successorship as Mahanth of the Math is pending consideration before this Court in MA No. 778 of 2014 wherein the petitioner may apply and seek appropriate relief.

Regard being had to the above, this Court while declining the relief would direct the Sub Divisional Officer to pass appropriate order in accordance with law on the reply of the petitioner, if not already passed as quickly as possible. The apprehension of the petitioner that he will be thrown out of the subject land, in my view, seems premature.

This disposes of the writ application.

(Kishore Kumar Mandal, J)

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