

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13613 of 2011

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1. Nalanda Zila Khadi Gramodyog Sangh Head Office:-Kagzi Mohalla, P.S.-Town Thana, Biharsharif, Distt.-Nalanda, Through Its Secretary (Mantri), Sri Manoj Pandey, S/O Late Nand Kishore Pandey, At Present R/O Nalanda Zila Khadi Gramdyog Sangh, Head Office:- Kagzi Mohalla. P.S.-Town Thana, Biharsharif, Distt.-Nalanda.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Bhutatwa, Puratatwa & Khanan Bibhag, Vikash Bhawan, New Secretariat, Belly Road, Patna-800001.
2. The Collector, Nalanda, Biharsharif.
3. The District Land Acquisition Officer, Nalanda, Biharsharif.
4. The Circle Officer, Ekangarsarai, Nalanda, Biharsharif.
5. The Executive Engineer, Gramin Karya Bibhag, Karya Pramandal-2, Hilsa (Nalanda).
6. The Director, Bhutatwa & Khanan Bibhag, State Office, Patna-17.
7. The Joint Secretary, Yuva & Puratatva Bibhag, Bihar, Patna Vikash Bhawan, New Secretariat, Belly Road, Patna-800001.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar

For the Respondent/s : Mr. Harishankar Roy, A.C. to PAAG

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 08-01-2016

Heard the Counsel for the petitioner and Mr. Harishankar Roy, A.C. to PAAG for the State. Parties have exchanged pleadings.

The petitioner claims to be the Secretary of Nalanda Zila Khadi Gramodyog Sangh (for short 'the Sangh'). The writ application questions the legality of the steps taken by the respondents for construction of boundary wall over the land of the Sangh appertaining to Khata No. 499 Khesra No. 287 situated in village Telhara within Ekangarsarai Block in the district of Nalanda measuring an area of 16 decimals (approx.). According to the writ petition, the land was in



possession of one Dhatri Pustakalaya. The Secretary of the Pustakalaya executed a conditional deed of gift (Annexure-7 to the supplementary affidavit) in the year 1980 in favour of the Sangh in respect of 16 decimals of land. After having obtained the land, the petitioner claims to have started khadi work in the premises. Some construction was also made. All of a sudden, the respondents started constructing the boundary wall over the land of the Sangh for construction of Museum.

A supplementary counter affidavit has been filed on behalf of the respondents stating *inter alia* that the above land is recorded as *Gairmajarua Sarva Sadharan* land in the survey khatian. During chakbandi operations, the land was recorded as *Krira Asthal* (play ground). Annexure-A has been enclosed in support of the said contention. It is stated that the Secretary of the erstwhile Dhatri Pustakalaya quite illegally donated the 16 decimals of land to the petitioner without obtaining any approval from the government in the concerned department. The deed of gift contemplated that if the activities for which the land was donated is not found carried on, the same shall stand returned to the State Government. The respondents have further stated that the Gram Sabha of the Panchayat in question unanimously resolved to construct a Museum over the said piece of land. A proposal in this regard was made and in the light of the said

resolution of the Gram Sabha, steps have been taken.

Indisputably, the land in question is government land. How it came in the hand of Dhatri Pustakalaya is not known to the Court. The Secretary of the Pustakalaya executed the deed of gift in favour of the petitioner although conditional, is again a question which is not answered from the pleadings on record. On the other hand, treating the land to be *Gairmajarua* land of the government, the respondents have stated that on a resolution taken in this regard by the Gram Sabha, the construction work of the Museum has been initiated. The petitioner in this regard has drawn attention of the Court to the pleadings in order to show that the resolution of the Gram Sabha was only in respect of 35 decimals of land appertaining to Chak No. 1705 (Annexure-8 to the supplementary affidavit).

There is another aspect of the matter. The petitioner asserts that the khadi work is still carried out on the donated land whereas the respondent State has disputed the same.

Considering the above, in my view, the ends of justice shall be sub-served if the writ application is disposed of by permitting the petitioner to raise the grievance as raised in this application before the District Magistrate-cum-Collector (respondent no.2) who shall look into the grievance of the petitioner and take appropriate decision and/or pass appropriate order in accordance with law.

Let the petitioner file appropriate representation before the District Magistrate (respondent no. 2) within three weeks whereafter the said respondent shall examine the said grievance of the petitioner in accordance with law as quickly as possible preferably within two months of such filing.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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