

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3330 of 2013

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1. Khursheed Kamal S/O Late Moiduddin R/O Vill-Bhusaula Danapur,
P.S.& P.O.Phulwarisharif, Distt-Patna

.... Petitioner/s

Versus

1. The Bihar State Sunni Wakf Board, Patna, 2nd Floor, Haj Bhawan, 34
Ali Imam Path, Harding Road, Patna-800001, through the Chief Executive
officer, The Bihar State Sunni Wakf Board, 2nd Floor, Haj Bhawan, 34 Ali
Imam Path, Harding Road, Patna-800001.
2. The Chief Executive Officer, Bihar State Sunni Wakf Board, 2nd Floor,
Haj Bhawan, 34 Ali Imam Path, Harding Road Patna-800001
3. Arshad Kamal S/O Late Shahabuddin R/O Vill-Bhusaula Danapur,
P.S.&P.O.Phulwarisharif, Distt-Patna
4. Md. Azimuddin S/O Late Md. Imamuddin Secretary Of Wakf Estate
No.1488, Bhusaula Danapur, P.S.&P.O.Phulwarisharif, Patna, Distt-Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Aslam Ansari

For the Respondent/s : Mr. Rashid Izhar

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

13 03-05-2016 Heard Mr. Shabbir Ahmad in support of the writ

application, Mr. Rashid Izhar who has appeared on behalf of the

Wakf Board and Mr. Salauddin Khan who has appeared on behalf

of the respondents to oppose the writ petition which has been filed

to question the legality/pregnability of the judgment dated

20.10.2011 passed by the Presiding Officer, Bihar Wakf Tribunal,

Patna in Title suit no. 130 of 2009 preferred by the writ petitioner.

The said suit was dismissed, on contest, by the Tribunal.

Be it noted that the respondents have resisted the



application contending that the case is barred by the principles of res judicata. It has also been contended that, on the basis of few judgments of the Hon'ble Apex Court as well as this Court, that once the property is registered with the Wakf Board as the Wakf property then it is not liable to be changed/alterd. Be it further noted that the case of the petitioner is that they have purchased 17 decimals of the land appertaining to plot no. 819, khata no. 372 situated in Mouja Bhusaula Danapur within Phulwarisharif P.S. in the district of Patna from Bibi Khujishta Bano and Mahmood Hassan (mother and son) whereas the case of the contesting respondents, is that the subject land along with the other lands was dedicated to God on permanent basis by late Abdur Rauf and his wife Bani Fatma (husband and wife) prior to 1948 and the same was registered with Wakf Board as the Wakf property. Litigation with respect to the other parts of land covered by the dedication of the document created by Abdur Rauf and Bani Fatma resulted in dismissal of the claim/suit which got the approval of the Hon'ble Apex Court on challenge.

A supplementary affidavit is filed. Relying on a judgment of the Apex Court since report in AIR 2010 SC 2897, it has been submitted by the petitioner that the relief prayed in suit before the Tribunal could not have been granted by the Tribunal

and as such the petitioner would seek withdrawal of the application enabling him to take recourse available to him in law . The respondents have not objected to such stand of the petitioner.

The application, as prayed, is permitted to be withdrawn with liberty to ventilate the grievance before the appropriate forum/authority in accordance with law.

(Kishore Kumar Mandal, J)

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