

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5977 of 2017

=====

1. Arjun Das @ Adaiya Tiwari, S/o late Virchan Tiwari
2. Vayash Das @ Rajeshwar Tiwari, S/o late Kedar Tiwari, Both R/o Vill
Jogiya Tola, P.S. Chanpatiya (Shirisiya O.P.), Distt. W. Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Bettiah, Dist. W. Champran.
3. The S.D.M. Bettiah Sadar Dist. W. Champaran
4. Circle Officer Chanpatiya Block District West Champaran
5. The Superintendent of Police, Bettiah Dist W.Champaran
6. The Officer-in-Charge, Chanpatiya Police Station W. champaran.
7. The B.D.O. Chanpatiya Block Dist. W. Champaran
8. Shadhu Sharan Tiwari @ Chandrika Tiwari S/o late Subba Tiwari, R/o
Vill Jogiya Tola, P.S. Chanpatiya, Dist- W. champaran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dhannjay Kumar No 2
For the Respondent/s : Mr. Subhash Chandra Yadav, GP-15

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-07-2017 Heard learned counsels for the petitioners and the
respondent State.

The present writ application has been filed for a
direction to the respondent authorities to dispose of the
representation of the petitioners filed before the D.I.G., Bettiah,
West Champaran, as contained in Annexure 3 and to get the
encroachment removed from the land of Shree Ram Janki Rajiv
Lochan Bhagwan Math (hereinafter referred to as the 'Math').

Learned counsel for the petitioner submits that at



present he is confining the prayer for disposal of the representation pending before the D.I.G., Bettiah, West Champaran.

Learned AC to G.P. 15 appearing for respondent nos. 1 to 7 submits that he has no objection to the confined prayer of the petitioner with regard to disposal of their representation as contained in Annexure 3.

From the submissions made by the parties and perusal of the representation of the petitioners, as contained in Annexure 3, it appears that there is dispute with regard to the property of Math in question between the petitioner and respondent no.8. It is also claimed by the petitioner that respondent no. 8 transferred certain donated lands of the Math.

Having heard learned counsels for the parties, this Court feels necessary to deliberate upon the issue, whether factual issue and the disputed question of facts can be looked into, while exercising discretionary jurisdiction under Article 226 of the Constitution of India. There is no rule that the High Court cannot try the issue of facts in a writ application, but in such cases where relief has been prayed for on the basis of disputed question of facts, which cannot be determined without leading of evidence, the Court should ordinarily relegate the parties aggrieved to agitate the issue before a Civil Court.



In the present case, the issue whether the land in question is of Math or not, the petitioner is Mahanth of the Math or not or respondent no. 8 was entitled to transfer the donated land of the Math or not, cannot be decided without leading of the evidence and hearing all the affected parties.

However, in view of the limited prayer of the petitioner, it is expected from the D.I.G., Bettiah to dispose of the representation of the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order, if it has not been disposed of as yet.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

Anil/-

U			
---	--	--	--

