

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2042 of 2016
IN
Civil Writ Jurisdiction Case No. 11458 of 2013**

- =====
1. The State of Bihar, through the Chief Secretary Bihar, Patna.
 2. The District Magistrate, Bhojpur, District Bhojpur, Ara.
 3. The S.D.O., Sadar, Ara, District- Bhojpur.
 4. The Sub Registrar, District Registration Office, Ara, Bhojpur.
 5. The S.P. Mounted Military Police, Ara, Bhojpur.

.... Appellant/s

Versus

1. Mahtodist Church in India, through its District Superintendent of Sahabad, Ara.
2. Rev. Alfred Andrews, Son of Late Gladwin Andrews, District Superintendent of Sahabad, Ara, Resident of Methodist Hospital Pratap Sagar, Police Station- Dumraon, District- Buxar.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Md. Irshad, Advocate
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-07-2017

Delay of 188 days in filing the appeal is condoned. I.A.

No.8446 of 2016 is allowed.

Heard on the question of admission.

Seeking exception to an order dated 2.3.2016 passed by the learned Writ Court in C.W.J.C. No.11458 of 2013, this appeal has been filed under Clause 10 of the Letters Patent.

Dispute in question pertains to the land bearing Khata



No.1766 and the Act of the State Government in including the subject land in the category of a banned government land.

Challenging the aforesaid act of the State Government, the writ petition was filed by the respondents and the same having been allowed, this appeal by the State Government, primarily on the ground that the contention of the State Government and the averments by the State Government in the counter affidavit have not been properly considered and, therefore, the order warrants interference. It was tried to be argued that the land in question cannot be treated as a land belonging to the respondents and in including the land in the category of “banned government land”, the State Government has not committed any error.

However, on going through the detailed order passed by the learned Writ Court and the reasons and grounds that weighed with the learned Writ Court for allowing the writ petition filed by the respondents and quashing the act of the Government, we find that the land in question was situated in the area and originally it was in the ownership of the Government of India. By a notification issued on 23rd of March, 1948, the Government of India severed its right in favour of the respondent church land and granted the entire benefit originating to the church of England by issuing a Government Office Gazette Notification. The land subsequently stood vested in the



church of India, thereafter came to custody of the present respondents. The learned Writ Court found that in the revenue records also initially the land was shown as vacant land, but thereafter the controversy arose with regard to possession of the church and the matter was taken up in Title Suit No.139 of 1979 and a declaration was granted. In the title suit that was pending, in the written statement filed by the State Government, it was their case that the land originally belonged to the Government of India and it is the land of the Government of India and it was never the case of the State Government that they are the owners of the land in question.

Thereafter the dispute came to this Court in various writ petitions. The Court allowed the writ petition and it was found that the land belongs to the petitioner church. The learned Writ Court has gone into various aspects and found that after the land was vested in the church, on the previous occasion when the Government tried to illegally encroach upon the land, the matter came in C.W.J.C. No.5906 of 2000 and thereafter in C.W.J.C. No.367 of 2009 and both the petitions were allowed. It is indicated that both these orders have attained finality, the State Government having not challenged them either by filing an appeal or by approaching the Supreme Court. Finally, the Writ Court takes note of the fact that the Government is now adopting a novel method of encroaching and usurping its



jurisdiction. Finding the act of the Government unsustainable and by recording a finding that the land belongs to the respondent church (petitioner before the Writ Court), the writ petition has been allowed.

On going through the reasons detailed hereinabove, which were considered by the learned Writ Court in C.W.J.C. No.11458 of 2013, this appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.7.2017
Transmission Date	N/A

