

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12407 of 2016

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1. Md. Jamshed son of Late Md. Jamal resident of Village - Papraur, P.S. - Barauni, District - Begusarai, Ex- Ward Member, Ward No. - 2, Gram Panchayat Raj Papraura Under Block - Barauni, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Special), Government of Bihar, Patna.
2. The Secretary, Department of Welfare, Government of Bihar, Patna.
3. The Under Secretary, Government of Bihar, Patna.
4. The District Magistrate, Begusarai.
5. The District Welfare Officer, Begusarai.
6. The Sub Divisional Officer, Begusarai Sub Division, District - Begusarai.
7. The Block Development Officer, Block - Barauni, District - Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha, Advocate

For the Respondent/s : Mr. Amaresh Kumar Sinha, AC to GA-1

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-03-2017

In this Public Interest Litigation filed by the petitioner, petitioner claims that in the land in question, measuring 8 Bighas, 12 Katthas and 16 Dhoors, which is used as a graveyard by members of a particular religious community, no boundary wall is being constructed whereas in other similarly situated graveyards boundary wall has been constructed. *Inter alia* seeking a mandamus to the respondents to construct a boundary wall in the graveyard known as Papraura Kabristan, this writ petition has been filed.



On notice being issued, respondents have filed a counter affidavit and it is pointed out by them that in Mauza Papraura there is already a government Kabristan in Khata No.464, Khesra No.148 area 5 Bighas, which is an Aam Kabristan for the residents of the village. The boundary wall over the Kabristan in question cannot be constructed as it is situated in a Raiyati land outside the government Kabristan. It is pointed out that the Circle Officer, Barauni along with Amin visited the spot, carried out the spot verification and submitted the report vide letter dated 22.10.2016 (Annexure-A) and it was pointed out in this report that the land in question is a Raiyati land and, therefore, no graveyard can be constructed or a boundary wall erected on this Raiyati land. It was also indicated in the report that in the claimed land certain people are carrying out agriculture work and they are also having their dwelling houses. A detailed submission in this regard is made in para No.7, 8 and 9 of the counter affidavit filed by respondent Nos.4, 6 and 7 which clearly goes to show that the land in question is a Raiyati land, already a Kabristan is in existence and in the Kabristan Gherabandi Scheme issued on 11.1.2007, by the Home Department, in such land no boundary wall can be constructed.

Taking note of all the circumstances that have been indicated by the respondents in their counter affidavit, we see no



reason to make any indulgence into the matter.

The petition is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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