

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 10971 of 2016**

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1. Shah Murtaza Son of Late Abdul Gafoor (Gafoor Shah).
  2. Md. Idrees Son of Md. Maqbool.
  3. Md. Sadare Alam Son of Md. Amin Shah.

All resident of Village- Mahmooda, Post- Mahmooda, P.S. Khudaganj, District- Nalanda.

.... .... Petitioner/s

Versus

1. The State of Bihar through the chief Executive Officer Bihar State Sunni Wakf Board.
2. The Chief Executive Officer, Bihar State Sunni Wakf Board, 34 Ali Imam Patna (Harding Road) Haj Bhawan Patna.
3. The Collector cum District Magistrate, Nalanda at Bihar Sharif.
4. The Subdivisional Officer Hilsa, District- Nalanda.
5. The S.P. Nalanda, at Bihar Sharif.
6. The Dy S.P. Hilsa District- Nalanda.
7. The Anchal Adhikari Islampur, District- Nalanda.
8. The Officer Incharge Khudaganj, P.S. District- Nalanda.
9. Md. Qamruddin Shah, Village- Mahmooda, P.O.- Mahmooda, Via- Khudaganj, District- Nalanda.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Syed Md. Najmul Bari, Advocate  
For the State : Mr. Anil Kumar Singh, A.C. to S.C. 21

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date:** 13-09-2017

Heard learned counsel for the petitioners; State and the  
Bihar State Sunni Wakf Board (hereinafter referred to as the  
'Board').



2. The petitioners have moved the Court for the following reliefs:

*“1. That this is an application for a direction to the authority concerned for a partial modification by granting petitioners in management and control over plot of land contained in wakf no. 2569 alongwith Qamruddin Shah (Respondent No. 9) as the petitioners are co-Sharers and decendent of Imaman Shah, Gulaman Shah and Dilawar Shah Brother of Badu Shah (Khatiyani Raiyat of Plot no. 12471, 12472 and 12474, Khat no. 1334, thana No. 137 Islampur).*

*(ii) For a further direction to the authority concerned to follow the decision made earlier before the Director Consolidation on 19.08.87 in case no. 2623 of 1986 wherein Qamruddin Shah was also a party. The said order was followed amicably for a long period between the parties (Qamruddin Shah and on behalf of petitioners) and accordingly modification be made in view of the decision made before the director consolidation.*

*(iii) For a further direction to the authority concerned for modification taking into consideration that Qamruddin Shah has never been aggrieved by the order of Director Consolidation dt. 19.8.87 and as such it has become final and in view of the decision made in A.I.R. 2007 S.C. (D.B.) page 1447 whereby it has been made clear that since the order of Director Consolidation has been passed prior to the commencement of the wakf Act, 1995 wherein share of the parties has been decided, therefore neither board nor Tribunal can enterfare into the said decision.*

*(iv) For a further direction to modify the order in the facts and circumstances of the matter and in absence whereof it has been made clear that the petitioner have been illegally deprived of their right and title and thus it would appear clearly that the action of the authorities of the board is violative of the principles of fundamental right, natural Justice and fair play enshrined in the constitution of India.*



*(v) For any other relief or reliefs as your lordships may deem fit and proper.”*

3. In sum and substance, the grievance of the petitioners is that since the respondent no. 9, who was the *Mutawalli* of the Wakf in question has died, there is no *Mutawalli* yet appointed which is going to prejudice and cause harm to the interest of the Wakf in question in view of the oncoming fair which is held in the month of *Muharram*, which starts by the end of this month itself.

4. Learned counsel for the petitioners submitted that the competent forum has held that the petitioners also have an interest in the Wakf in question and thus in view of the respondent no. 9 having died, any one of the petitioners is required to be made the *Mutawalli*. It was contended that though various representations have been filed before the Board but no decision has been taken.

5. In view thereof, the Court deems it appropriate to dispose off the writ petition with a direction to the petitioners to file a detailed representation before the Board latest by 15<sup>th</sup> September, 2017, along with a copy of this order. Upon the same being done, the Board will ensure that a reasoned order is passed on the representation filed by the petitioners and also that proper arrangement is made to manage the Wakf in question, so that the holding of the fair is not hampered and the interest of the Wakf is



safeguarded. The said arrangement/reasoned order shall be passed by the Board latest by 20<sup>th</sup> September, 2017 and communicated to all concerned, including the petitioners, for its implementation.

6. Learned counsel for the Board shall also communicate the order to the concerned authority.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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