

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5368 of 2014

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1. Dr. Mahrukh Khan Wife Of Late Dr. Nazimuddin Haider Khan

2. Dr. Farheen Khan Daughter Of Of Late Dr. Nazimuddin Haider Khan

Both Residents Of Village & P.O. & P.S. Parsauni, District - Sitamarhi At Present
Resident Of Ashiana Nursing Home Pvt. Ltd. Ashiana More, P.S. Rajiv Nagar,
Patna - 14

.... Petitioner/s

Versus

1. The State Of Bihar, Through Which Principal Secretary, Minority Welfare
Department, Government of Bihar, Patna

2. The Bihar State Sunni Wakf Board, through its Chief Executive Officer, 34
Harding Road, Patna

3. The Chairman, Bihar State Sunni Wakf Board, 34 Harding Road, Patna

4. The Chief Executive Officer, Bihar State Sunni Wakf Board, 34 Harding Road,
Patna

5. The Collector, Sitamarhi

6. The Sub - Divisional Police Officer, Belsand Sub - Division, Sitamarhi

7. The Deputy Collector Land Reforms, Belsand Sub - Division, Sitamarhi

8. The Circle Officer, Parsauni Block, Sitamarhi

9. Mr. Tarique Anis Khan Son of Late Anisuddin Khan Resident Of Village & P.O.
& P.S. Parsauni, District - Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahesh Narayan Parbat, Sr. Advocate with
Mr. Sanjay Kumar Jha and
Mr. Praveen Prabhakar, Advocates

For the State : Mr. Ashok Kumar Dubey, AC to AAG 11

For the Wakf Board : Mr. Md. Helal Ahmad, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 25-08-2017



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

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

“(a) To issue a writ of certiorari for quashing the office order as contained in memo no. 3139 dated 30.12.2013 (Annexure-10), issued by the Chief Executive Officer of the Bihar State Sunni Wakf Board, through which, without ascertain the wakf properties covered under Wakf Estate no. 726 situated at Village & P.O. & P.S. :- Parsauni, the petitioners have been asked to open the locks of their two rooms situated in the private lands of their own share.

(b) To issue a further writ of certiorari for quashing the Resolution no. 02 dated 4.6.2013 of the Bihar State Sunni Wakf Board (Annexure-8), through which a decision has been said to have taken by the Board for appointment of one Md. Tarique Anis Khan (private respondent) as Muttawalli of Raja Yakub Khan Wakf Estate no. 726, in wholly illegal and arbitrary manner.

(c) To issue a further writ of certiorari for quashing the office order as contained in memo no. 1622 dated 20.6.2013 (Annexure-9), based on the said resolution (Annexure-8), issued by the Chief Executive Officer of the Bihar State Sunni Wakf Board, through which private respondent has been said to have been appointed as Muttawalli of Raja



Yakub Khan Wakf Estate no. 726, situated at Village & P.O. & P.S. :- Parsauni, District:- Sitamarhi, in wholly illegal and without jurisdiction manner.

(d) To issue a writ of mandamus, commanding the respondents not to interfere, in any way, in the private properties of petitioners situated at Village & P.O. & P.S. :- Parsauni, District:- Sitamarhi, as Bihar State Sunni Wakf Board has got no jurisdiction to interfere in private properties of petitioners not covered under the wakf Estate.

(e) To any other relief or relief's for which the petitioners may be found entitled to."

3. It appears that the petitioners are disputing the fact that the order of the Board, which is impugned, refers to two rooms of the Wakf building which, according to them, is factually incorrect as the building itself is outside the Wakf properties and thus the Board has no jurisdiction in the matter.

4. It was submitted by learned counsel for the petitioners that the order has been passed at the instance of the respondent no. 9, who is the *Mutawalli* of Wakf Estate No. 726 and he himself has filed Title Suit No. 341 of 2012 before the Sub-Judge-1, Sitamarhi for partition against the petitioners in which the building in question has been shown as part of Schedule-I, of which partition has been sought.

5. Learned counsel for the Board submitted that a request has been made to the petitioners to unlock the rooms as it was



the respondent no. 7, being the *Mutawalli*, who was to deal with the property and further that it was used as dining and drawing room by all the beneficiaries, being used as a Guest House. However, he submitted that if the petitioners feel aggrieved and are confident that the said building/rooms are not the Wakf properties, it be shown by them, by filing an appropriate application before the Board which shall be considered on its own merits, in accordance with law.

6. Faced with the situation, learned counsel for the petitioners submitted that the writ petition be disposed off with liberty to the petitioners to file an appropriate application before the Board and the same may be directed to be disposed off expeditiously.

7. In view of the aforesaid, the writ petition, with consent, stands disposed off with liberty to the petitioners to move before the Board with regard to their grievances relating to Letter No. 3139 dated 20.12.2013. If such an application is filed within one month from today, the same shall be disposed off on merits, in accordance with law, after giving opportunity of hearing to all concerned within a period of three months from the date of its filing.

(Ahsanuddin Amanullah, J)

Anjani/-

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