

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.13719 of 2016**

**Along with**

**Interlocutory Application No. 5369 of 2017**

=====

Md. Akil S/o Late Md. Suleman R/v - Balkhi Katara, P.S. Laheri, District -  
Biharsharif ( Nalanda )

.... .... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna
2. The District Magistrate, Biharsharif, Nalanda
3. The Additional Collector, Biharsharif, Nalanda
4. The S.D.O., Biharsharif, Nalanda
5. The Circle officer, Biharsharif, Nalanda
6. The District Minority Welfare Officer, Nalanda
7. The Officer in Charge, Laheri Police Station, Nalanda
8. The Motwali ( Manager ), Soghara Waqf Estate, Biharsharif, Nalanda

.... .... Respondent/s

=====

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Mr. Vijay Kumar Sinha, Advocate |
| For the Respondents  | : | Mr. Rishi Raj Sinha, SC 19 with |
|                      |   | Ms. Archana Prasad, AC to SC 19 |
|                      |   | Mr. Syed Firoz Raza, Advocate   |

=====

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

**ORAL JUDGMENT**

**Date: 31-07-2017**

Heard learned counsel for the petitioner; State;  
respondent no. 8, who has *suo motu* appeared, and intervener  
applicants of Interlocutory Application No. 5369 of 2017.

2. The petitioner has moved the Court for the following  
reliefs:

*“That this writ application is being  
filed for issuance of an appropriate writ or writs,*



*order or orders commanding/directing the respondents no. 1 to 7 not to dispossess the petitioner from the fish shop which is situated in fish market near at Ajijiya Madarsha, Laheri, Baharabpar, Ramchandrapur Road, Biharsharif, Nalanda.”*

3. The controversy is short. The shop belonging to Soghara Wakf Estate became the bone of contention between the petitioner and the proposed intervener applicants. The petitioner claimed that after the death of his father the shop in question was settled in his favour. During the lifetime of the father of the petitioner, an application was given before the respondent no. 8 to change the name of the petitioner in place of his father and thereafter, upon death of the father of the petitioner, he applied for fresh agreement /allotment in his favour. However, dues of rent were paid to the concerned Wakf Estate for the entire shop by the petitioner for which certain receipts were given but such fact is not admitted by the private respondents. Thereafter, on the basis of complaint made by some private persons that the shop had been allotted to them and the petitioner had forcibly put his lock, the district administration and the local police prevented the petitioner from operating his shop. The petitioner thus moved the Court in the present writ application. In terms of the observations made by the Court in order dated



12.07.2017, a counter affidavit has been filed on behalf of respondents no. 2 to 5 in which it has been stated that the order by which the shop in question was directed to be handed over to the complainants has been recalled and further that the petitioner is now peacefully operating the shop in question.

4. In view of the aforesaid, the present writ application has become infructuous and nothing remains to be adjudicated.

5. Learned counsel for the State submitted that the district administration has realised that it was a private dispute and there should not be any resolution at their level.

6. Learned counsel for the respondent no. 8 submitted that the shop was not exclusively in the name of the father of the petitioner and there were other persons and their heirs have filed an application for allotment and in fact some portion of the shop was allotted in favour of others and with regard to the portion relating to the father of the petitioner, initially his brother had approached and the matter had not been finally decided. It was submitted that the brother of the petitioner even gave paper for agreement but thereafter did not follow it up.

7. Learned counsel for the petitioner, by way of reply, submitted that the shop was exclusively in the possession of his father and the entire rent amount of Rs. 52,800/- was also paid to the



respondent no. 8 and thereafter when up-to-date rent was being sought to be paid, it was refused to be accepted. However, it was submitted that he is still ready to pay the entire up-to-date amount. It was further submitted that again during the pendency of the writ application rent amount was sought to be paid through money order dated 24.07.2017, but the same was also refused.

8. Having considered the rival contentions, since the grievance of the petitioner stands redressed, the writ petition stands disposed off. However, this would not preclude the parties, including the respondent no. 8 and other claimants, to move before the respondent no. 8 or the Bihar State Sunni Wakf Board, (hereinafter referred to as the 'Board'), as the case may be, with regard to raising a dispute as to who is the rightful claimant for the shop and to what extent. The same shall be decided by the competent authority, who, as has been informed is the respondent no. 8. On the basis of the decision taken by him, consequences shall follow in law. If there is a dispute as to who is lawfully entitled to inherit the shop in question, and to what extent, the same shall be decided by the Board. It will be open to the respondent no. 8 to take a decision keeping the larger interest of the Wakf Estate in mind. It is further observed that in the event the matter travels to the Board, the same shall be disposed off within a period of two months.



9. In view of the present order disposing off the writ petition, no order is required to be passed on Interlocutory Application No. 5369 of 2017, which has been filed by the intervener applicants for intervention. However, they shall also have right to pursue the matter in accordance with law, before the appropriate forum.

**(Ahsanuddin Amanullah, J)**

Anjani/-

|          |  |
|----------|--|
| AFR/NAFR |  |
| U        |  |

