

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.591 of 2017

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1. Santosh Kumar Son of Sri Nandu Das Resident of Village/Mohalla- Laheri, Thana Road, Near Bramha Asthan Mandir, Bihar Sharif, P.S.- Laheri, District- Nalanda.
 2. Vikas Kumar Son of Sri Vinod Kumar Resident of Village/Mohalla- Bihar Sharif, P.S. Bihar, District- Nalanda.
 3. Prakash Kumar Das Son of Sri Ramji Das Resident of Village/Mohalla- Bharao Par, Dom Kila, P.S. - Laheri, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban and Rural Development Department, Govt. of Bihar, Patna.
2. Principal Secretary, Urban and Rural Development Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. The District Magistrate, Nalanda.
5. The Deputy Development Commissioner, Nalanda at Bihar Sharif.
6. Superintendent of Police, Nalanda.
7. Mayor, Bihar Sharif Municipal Corporation, Bihar Sharif, District- Nalanda.
8. Urban Commissioner, Bihar Sharif Municipal Corporation, Bihar Sharif, District- Nalanda.
9. Circle Officer, Bihar Sharif, District- Nalanda.
10. Lakhan Lal Verma Son of late Rohan Prasad@ Rohan Mahto@Sohan Prasad Resident of Village/Mohalla- Murarpur, P.S.- Laheri, District- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ritesh Kumar
For the State : Mr. Shiv Kumar, AC to GA 3
For Municipal Corporation: Mr. G P Saha
For private Respondent : Mr. Manish Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-04-2018

This petition has been filed in Public Interest by the petitioners and they want a mandamus be issued to the official respondents in the matter of development of certain area being 0.80



acre and 4.46 acres of land situated in Khata No. 48, Plot Nos. 679 and 682 in the district of Nalanda at Bihar Sharif, for construction and development of a green park in the area. It is stated that the area is gairmajarua aam river land and as per entry made in the Khatian and is under the ownership of the State of Bihar.

It is seen that earlier in CWJC No. 15169 of 2009 certain directions were issued to implement the decision of the Town Commissioner, Nalanda at Bihar Sharif, for development of the area. Respondent no. 10 herein challenges this decision and it was directed that the respondent Commissioner, Bihar Sharif Municipal Corporation shall look into the matter. The application filed by respondent no. 10 has been rejected by the District Magistrate, Nalanda and now it is stated that as the District Magistrate is not proceeding to develop the area, mandamus be issued in this regard in public interest for development of the area.

Respondents have filed a detailed counter affidavit and private respondent no. 10 has also filed counter affidavit staking his claim with regard to the area in question. According to respondent no. 10, the application is misconceived and it is a civil dispute. Respondent no. 10 further claims that he is entitled to the area and no development in the area can be made as claimed in the writ petition.

Taking note of the various issues involved in this matter,



we are of the considered view that apart from the fact that development involving the land, the question of construction of park and the nature of development to be undertaken in an area is exclusively an administrative and executive function relating to town planning and development of municipal area, a mandamus in this regard cannot be issued by this Court. That apart, there is serious dispute with regard to the claim of respondent no. 10 on the area in question and, therefore, in a writ petition in the nature of Public Interest Litigation under Article 226 of the Constitution, we are not inclined to issue any such mandamus.

Accordingly, finding no case being made out for indulgence as also on account of the material that has come on record we see no reason to interfere into the matter.

The writ petition is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mrl/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.04.2018
Transmission Date	

