

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15566 of 2014

=====

1. Md. Hifzur Rahman @ Hifzur Rahman, son of Late Hakim Md. Latifur Rahman,
resident of village- Benibari, Shikarpur, Police Station- Kadwan, District- Katihar

.... Petitioner/s

Versus

1. Most. Asma Khatoon wife of Late Mahmood Alam
2. Saud Alam
3. Shamsad Alam Both sons of Late Mahmood Alam, All resident of Mohalla- Mahboob Khan Tola, Police Station- K. Hatt, District- Purnia
4. Nasima Khatoon d/o Late Mahmood Alam, wife of Ekram Khan, Resident of Mahmood Chowk, Katihar, Police Station- Katihar, District- Katihar
5. Safia Khatoon d/o Late Mahmood Alam w/o Abdul Hakim, Resident of village- Larkania Tola, Police Station and District- Katihar
6. Rabia Khatoon d/o Late Mahmood Alam w/o Qaisar Hayat Resident of Mohalla- Coolipara, Police Station and District- Katihar
7. Gajala Parween d/o Late Mahmood Alam w/o Afroz Anjum, Resident of Mohalla- Maulvi Tola Madhubani, P.S. K. Hatt, District- Purnia
8. Sabina Khatoon, d/o Late Mahmood Alam w/o Sahab Yunus, R/O Urdu Middle School Barahpur, P.S. and District- Bhagalpur
9. Sri Santola Oraon
10. Sri Ramlal Uraon Both sons of Gonar Oraon, Resident of Mohalla- Mirjapur, Purnia City, Ward No. 18 Old New Ward No. 23, P.S. Sadar, District- Purnia
11. Rajendra Uraon
12. Sajendra Uraon @ Sajo Uraon
13. Raju Oraon
14. Majo Uraon @ Dev Uraon
15. Chultai Uraon All sons of Late Bhado Uraon, R/o Village- Mirjapur, P.S. K. Nagar, District- Purnia
16. Ful Kumari Devi wife of Govind Uraon daughter of Bhado Uraon, R/o Village- Khakhrailli, Police Station- Sadar, District- Purnia
17. Sk. Samsul Haque
18. Sk. Azhar Ali
19. Sk. Warid Ali
20. Sk. Belaluddin @ Belal Haque
21. Sk. Nayeemul Haque
22. Sk. Noorul Haque
23. Sk. Enamul Haque All sons of Fariduddin @ Farojuddin
24. Sk. Fariduddin @ Farijuddin son of Late Abdul Haque
25. Bibi Anjur wife of Haji Abu Bakar @ Abu Bakar Ali All resident of Mohalla- Chimni Bazar, Police Station- Sadar, District- Purnia
26. Sri Shiv Kumar Jha Son of Late Chhetan Jha, At present r/o village- Jhandapur, P.S. Thanabihpur, District- Bhagalpur
27. Md. Ismail
28. Abu Bakar Ali @ Bakar Ali, Both sons of Late Haji Mohar Ali
29. Jubaida Khatoon w/o Md. Jamil
30. Abdul Bashir Ali son of Md. Ismail All r/o Mohalla Mirjapur, New Ward No. 23 of Purnia Municipality, Police Station- Sadar, District- Purnia
31. Most. Salima w/o Late Md. Humayun
32. Md. Mashlino @ Murshalin @ Habibur s/o Late Md. Humayun
33. Shamsher Ali



34. Jamshed Ali both sons of Late Md. Humayun
35. Mintoo minor sons of late Md. Humayun through his natural guardian and mother Most. Salima
36. Meena Khatoon
37. Sabana Khatoon both daughter of Late Md. Humayun, All resident of Miyan Bazar, Chmni Bazar, Purnia City, P.S. Sadar, District- Purnia
38. Hasina Khatoon w/o Islam Master, R/O Mohiuddinpur, P.S. Sadar, District Purnia
39. Shabila Khatoon w/o Mozac R/O Chimni Bazar, Purnia City, Police Station- Sadar, District- Purnia
40. Bibi Ashiya w/o Abdullah, R/o Village- Chhatiya, Police Station- Sadar, District- Purnia
41. Sazera Khatoon w/o Yazdani R/o village- Jagarnathpur, P.S. and District- Malda (West Bengal)
42. Sk. Afzal Hussain S/o Sk. Iltaf Hussain, R/o Miyan Bazar, New Ward No. 23, Purnia Municipality, P.S.- Sadar, District- Purnia
43. Lal Bano @ Burhia d/o Late Sk. Abid Ali, R/o Mohalla- Dargah Tola Chimni Bazar, Purnia City, P.S.- Sadar, District- Purnea
44. Sajjad Ali
45. Razzaque Ali
46. Azhar Ali
47. Mazhar Ali
48. Mustafa All sons of Late Sk. Abid Ali, R/o Mohalla- Mohdipur, New Ward No. 23, Purnia Municipality, P.S.- Sadar, District- Purnea
49. Sk. Babar Ali
50. Md. Sarif Alam
51. Md. Ashraf Ali All sons of Md. Humayun R/o Mohalla Chimni Basar, New Ward No. 23, Purnia Municipality, P.S.- Sadar, District- Purnea
52. Bihar State Sunni Waqf Board, 34, Haj Bhawan Harding Road, Patna
53. The Secretary, Bihar State Sunni Waqf Board, 34, Haj Bhawan Harding Road, Patna
54. Saiyad Shah Hashim Mutawali Khanquah Rashidiya, Dargah Mustafiya Chinni Bazar, Purnia R/O Mohalla- Zafara Bazar, P.S. and District- Gorakhpur, U.P.
55. Maulvi Abdur Rashid s/o Late Haji Faiz Buksh R/o Butaha Shadipur, Police Station- Baisi, District- Purnia
56. Maulvi Abdul Ali Advocate son of Maulvi Abdus Salam, R/o Mohalla- Amla Tola, P.S. and District- Katihar
57. Saiyad Abdur Rab s/o Late Abdus Sattar, R/o Mauza Dilalpur, P.S. Kadwa, District- Katihar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Raghieb Ahsan, Senior Advocate
Mr. Najeeb Ahmad, Advocate
For the Respondent/s : Mr. Azhar Kareem, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-04-2018

This application has been filed by one of the plaintiffs of



Title Suit No.01 of 1996 pending in the Court of Sub Judge, Ist Purnia for setting aside the order dated 04.08.2014 whereby and whereunder the petition filed by respondent nos.1 to 8 (respondent Ist set) for impleading them as party to the suit under Order 1 Rule 10 was allowed.

2. Heard learned counsel for the petitioners and the respondents.

3. The aforesaid Title Suit No.01 of 1996 was filed by Bihar State Sunni Waqf Board and others for declaration of their right title and interest in the suit land and further that the defendants have no manner of concern with the same. The suit land admittedly belonged to Bibi Wahidun Nishan and she was in Khas cultivating possession of the land mentioned in schedule-A of the plaint. The said Bibi Wahidun Nishan dedicated her entire land in favour of Masjid and Dargah through the then Mutwalli and 'Sajjada Nashin' Hazrat Syed Shah Shahid Ali by virtue of registered Waqf deed dated 26.09.1947. After execution of said document she put Janab Shah Nasib Jehain in possession and since thereafter she or her heirs have ceased to have any concern with the entire land. The plaintiffs have further stated that the respondents second set forming and unlawful assembly forcibly dispossessed the plaintiffs and during municipal survey operation they got their names recorded. The plaintiffs on the strength of said registered Waqf deed, filed the aforesaid suit for declaration of their title. The plaintiff and defendant second set adduced their evidence and when the case was pending for argument, these eight intervenors respondents first party filed petition under Order 1 Rule 10 of the CPC claiming interest of the suit property on account of their being legal heirs of the said Bibi Wahidun Nishan.

4. The contention of the learned counsel for the petitioners is that the intervenor defendants had or have no right title or interest in the suit property or to get them impleaded as party. The suit was filed by the petitioners in the year



1996 and after a period of 22 years, they have filed the petition at the fag end of trial. If they had any interest in the suit property, they could have filed title suit against the respondents second set who have forcibly taken possession of the land in question. According to the learned counsel for the petitioners these intervenors have been set up by the respondents second set only to prolong to disposal of the suit.

5. On going through the pleadings of both the parties including the counter affidavit of the respondent first set, I find that the respondent first set never challenged the deed of Waqf which was executed by Bibi Wahidun Nishan. They have admitted that the document in question was executed by Bibi Wahidun Nishan. The plaintiffs being protector of the suit land on the basis of registered Waqf deed have filed the suit for declaration of title and recovery of possession. The said Bibi Wahidun Nishan died in the year 1968 and during her life time she or her heirs did not challenge the genuineness or validity of the said Waqf Board. The intervenor respondents have neither any interest in the suit property nor they are necessary party to the suit. In view of the terms of Waqf deed, the intervenor defendants have no right to get themselves impleaded as party to the suit.

6. In view of above facts, the impugned order impleading the intervenor defendants as party to the suit at the fag end of trial is not sustainable and is accordingly set aside. This application is accordingly allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.04.2018
Transmission Date	07.04.2018

