

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21393 of 2014

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Rishi Kumar Shahi S/o Late Shyam Narayan Shahi Resident of Village - Ganguli (Math), P.O. & P.S. - Benipatti, District - Madhubani. At present residing at Village - Anantkamtaul, P.S. - Kurdhni, Distt. - Muzzaffarpur.

.... Petitioners

Versus

1. The State of Bihar, through Collector, Madhubani, Collectorate, District - Madhubani.
2. The Bihar State Board of Religious Trust, Vidyapati Marg, Patna - 800001.
3. The Circle Officer cum Chairman, Ram Janki Sthan Mandir Trust, Ganguli, Anchal - Benipatti, AT & P.O. - Ganguli, District - Madhubani.
4. The Secretary, Ram Janki Sthan Mandir Trust, Ganguli, Anchal - Benipatti, AT & P.O. - Ganguli, District - Madhubani.
5. The Treasurer, Ram Janki Sthan Mandir Trust, Ganguli, Anchal - Benipatti, AT & P.O. - Ganguli, District - Madhubani.
6. The S.D.O., Benipatti, AT & P.O. - Ganguli, District - Madhubani.
7. The Registrar, Benipatti, Registry Office, District - Madhubani.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anshuman Jaipuriyar, Advocate
Praveen Kumar Jaipuriar, Advocate
For Bihar State Board of Religious Trusts : Mr. Shekhar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-06-2018

Though vide order dated 6th September, 2017, this case was adjourned until 9th October, 2017 in order to enable the Bihar State Board of Religious Trusts (for short 'Board') to file a counter affidavit, no counter-affidavit has been filed till date.



2. Keeping in mind the nature of prayer made in the writ petition, I do not consider it a fit case for further adjournment, as requested by the learned counsel for the Board, in order to enable him to file counter-affidavit.

3. Heard the parties.

4. The prayer of the petitioner in the writ petition is for directing the respondents not to disturb him from peaceful possession of his Khatiyani Raiyati lands.

5. It is submitted by the learned counsel for the petitioner that the petitioner is in peaceful cultivable possession over his Raiyati land, but respondents are illegally interfering with his right, title and possession. The original land owner late Mahabir Prasad Shahi had formed one “Ram Janki Stahan Mandir Turst” at Ganguli, Anchal – Benipatti, District- Madhubani and donated some land for maintenance and welfare of the society at large, for “Ram Janki Sthan Mandir Turst”. Sri Shayam Narayan Shahi was appointed as a caretaker of the Trust by the Board, who continued to take proper care and maintenance of the Trusts. It is submitted that even though the petitioner is paying rent to the State of Bihar, as the Jamabandi is in the name of the petitioner, the respondents are trying to forcefully acquire his private property.

6. Mr. Shekhar Singh, learned counsel for the Board has



raised question regarding the maintainability of the writ petition.

7. In sum and substance, by way of filing the instant writ petition, the petitioner is trying to obtain a decree of his right, title and possession over the certain plots which he claims to have inherited from his predecessors.

8. The first question to be considered by this Court is whether the writ petition in its present forum is maintainable.

9. The jurisdiction under Article 226 of the Constitution is an extraordinary jurisdiction. In matters involving civil rights or disputes regarding right, title and possession, it is not proper for this Court to interfere under Article 226 of the Constitution of India. In such case, the proper remedy to a party aggrieved is to approach the civil court and seek appropriate relief.

10. It is well settled position in law that availability of an equally efficacious statutory remedy, though puts no bar on a constitutional court in exercising extraordinary jurisdiction, it will be a strong circumstance to deter the court from exercising the extraordinary jurisdiction.

11. Keeping in mind the discussions made above, I am not inclined to exercise my extraordinary jurisdiction in the present matter in favour of the petitioner in view of availability of equally efficacious statutory remedy.



12. The writ petition is, accordingly, dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.06.2018
Transmission Date	NA

