

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1705 of 2017
IN
Civil Writ Jurisdiction Case No. 22766 of 2011**

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Abdur Rahman Son of Late Abdul Ghani resident of Village - Gopalpur Gopal,
P.O. & P.S. Sharfuddinpur, District - Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary Department of Minority Affairs Govt. of Bihar Patna.
3. The District Magistrate, Muzaffarpur.
4. The Chairman Bihar State Sunni Wakf Board, 34, Haj Bhawan, Ali Imam Path
(Harding Road), Patna - 1.
5. The Bihar State Sunni Wakf Board through its Secretary 34 Haj Bhawan, Ali
Imam Path (Harding Road), Patna - 1.
6. Inspector of the Board (Enquiry Officer) 34, Haj Bhawan Ali Imam Path
(Harding Road), Patna - 1.
7. Bibi Anisha Khatoon daughter of Late Abdur Rahman & wife of Md. Taiyab
Resident of Village - Gopalpur Gopal, P.O. & P.S. - Sharfuddinpur, District -
Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Anis Akhtar, Adv.

For the Respondent/s : Mr. Durgesh Nandan –AAG-14

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 08-05-2018

Heard counsel for the appellant, counsel for the private
respondent and counsel for the State.

While arguing the appeal against the order dated



07.11.2017, the thrust of the argument of the counsel for the appellant is appointment of respondent no. 7 as the Mutawali of the Wakf Estate of late Haji Gaushan Ali. There is no serious argument with regard to the removal of the present appellant as a Mutawali as such, therefore, the Court intentionally refrains from making further observations and comments culled out from the records as well as the impugned order as to why he came to be removed from such a position.

So far appointment of Bibi Anisha Khatoon is concerned, she has been appointed because she is daughter of the earlier Mutawali late Abdur Rahman and from a reading of the impugned order as well as Annexure-6 to the writ application, we too come to a conclusion that she is in the line of succession from Abdur Rahman and her appointment at least cannot be assailed or challenged on the ground that she does not come within the line of succession as has been argued on behalf of the appellant. No doubt when the Wakf was created by the Wakif, there was mention of the eldest son to take over from the line laid down in the deed but in the 21st century and with no guarantee that eldest child will be a son, the said Will or desire will have to be read in the context of 21st century.

One thing is evident that Wakf Estate is required to be governed by one of the family members of the original Wakif and strangers cannot be permitted entry as a Mutawali.



However, the issue of appointment of the private respondent namely Bibi Anisha Khatoon is left open. However, the appeal against the impugned order dated 07.11.2017 stands dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Rajesh

AFR/NAFR	NAFR
CAV DATE	NA
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