

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14654 of 2017

1. Sudha Sharma, Wife of Shashikant, Resident of Village- Solra, Police Station- Paraiya, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms, Government of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The Collector, Gaya.
4. The S.S.P., Gaya.
5. The Sub-Divisional Officer, Sadar, Gaya.
6. The S.H.O., Delha Police Station, Gaya.
7. The District Superintendent of Education, Gaya.
8. Pramendra Kumar, Son of Sri Ratan Kumar, Resident of Village-Chhotaki Delha, Gusalkhana Road, District- Gaya.
9. Sarita Devi, The Secretary, Vidyalaya Shiksha Seva Samiti, Girl's Middle School, Delha, Gaya.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar

For the Respondent/s : Mr. Raj Kishore Roy-Gp18

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

10 24-08-2018 Heard Mr. K.N. Choubey, the learned senior counsel
for the petitioner, Mr. Raj Kishore Roy, learned GP-18 for
respondent nos. 1 to 7 and Mr. Surendra Kishore Thakur, learned
counsel for respondent no. 8.

The petitioner has filed this writ petition for following reliefs:-

“(a) For issuance of a writ in the nature of writ of certiorari for quashing of the B.L.T. Case No. 475 of 2017 filed before the Bihar Land Tribunal, Patna by respondent no. 8 impersonating as Secretary of Girl’s Middle School



although respondent no. 9 is in fact the Secretary of the School.

(b) For issuance of a writ of certiorari for quashing of the order dated 02.08.2017 passed by Members, administrative BLT namely K.P. Ramaiah in B.L.T Case No. 475 of 2017 whereby the order of Commissioner, Magadh Division, Gaya has been stayed without condoning the delay in filing B.L.T. Case No. 475 of 2017.

(c) For quashing the Memo No. 727 dated 31.08.2017 issued by the Sub-Divisional Officer, Sadar, Gaya whereby the construction over land of petitioner has been directed to be stayed in terms of order dated 02.08.2017 passed by B.L.T. Patna.

(d) For issuance of writ of mandamus directing respondent no. 4 to take appropriate legal action against respondent no. 8 for impersonating as Secretary of Vidyalaya Shiksha Samiti of Delha Girl's Middle School, Gaya and using its letter head for pressurizing the Government officials.

(e) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case”.

The facts of the case are that a school, namely, Kanya Madhya Vidyalaya was established in the year 1953 in the district of Gaya on monthly rent basis on a building standing on Khata No. 514, plot No. 1639 (new) 8767 (old). In the year 2008 the State Government made a policy to construct building of



Middle Schools which were not having their own building and in this regard five men committee was constituted in the district of Gaya to find out the schools which have no building. The Committee submitted its report in which Kanya Madhya Vidyalaya found its name at serial No. 18. It was also found that the building of the school is in a very dilapidated condition and even the rent of Rs. 25/- per month was not paid to its owner, Rameshwar Prasad, since 1985. The Committee recommended that the school be shifted to Madhya Vidyalaya, Delha till the construction of the building of the school. Shiv Shankar Prasad, son of Rameshwar Prasad, got the building in which the school was running as his share in partition from his brothers and he executed power of attorney in favour of petitioner's husband on 06.01.2009 to upkeep the property and sale of the aforesaid land. Shiv Shankar Prasad got the land in Partition Suit No. 92 of 1969. When respondent No.8 came to know about the execution of power of attorney in favour of husband of the petitioner, he filed CWJC No. 1813 of 2009 before this court. In the meantime, the petitioner purchased the building on 06.01.2011 through registered sale deed and got her name mutated in the records. The petitioner filed I.A. No. 5890 of 2011 for impleading her as a party in CWJC No. 1813 of 2009 but the aforesaid CWJC was dismissed as



withdrawn on 12.09.2011. The respondent No. 8 filed petition before the Circle Officer, Town block Chandauti, Gaya for cancelling the mutation of the petitioner. The Circle Officer vide letter No. 3044 dated 16.11.2013 recommended to the Additional Collector, Gaya to cancel the mutation of the petitioner and the Additional Collector, Gaya cancelled the mutation of the petitioner vide order dated 05.02.2014 passed in Mutation case No. 06/2013-14 (Annexure-5). Against the order of Additional Collector, Gaya the petitioner preferred appeal before the Collector, Gaya on 05.03.2014. The Collector, Gaya vide order dated 11.06.2015 dismissed the appeal of the petitioner (Annexure-8). The petitioner preferred revision before the Commissioner, Magadh Division, Gaya being Jamabandi Cancellation Revision Case No. 134 of 2015. The Commissioner, Magadh Division, Gaya set aside the order of Additional Collector as well as Collector vide order dated 20.07.2016. Thereafter, respondent No.8 preferred case No. 475 of 2017 before Bihar Land Tribunal and challenged the order of Commissioner, Magadh Division, Gaya impersonating himself as Secretary of Vidyala Shiksha Samiti and Mr. K. P. Ramaiah, Member, B.L.T stayed the order of Commissioner vide order dated 02.08.2017 which prompted the petitioner to file this writ petition. During the pendency of this writ petition, the Chairman,



B.L.T. remanded the case to the Commissioner, Magadh Division, Gaya vide order dated 20.04.2018.

The learned senior counsel for the petitioner submits that the entire proceeding before the B.L.T. is illegal and liable to be quashed. Respondent No.8 impersonated himself to be Secretary of the Vidyalaya Shiksha Samiti but the respondents filed counter affidavit stating that respondent No.8 is not the Secretary of Vidyalaya Shiksha Samiti. It is further submitted that there is no ground for remanding the case as contained in Order 41 Rule 23 of the C.P.C. but I do not find any force in the submission of the learned senior counsel for the petitioner. The case relates with the mutation of the land of the school. The petitioner preferred revision against the order of cancellation of Jamabandi passed by Additional Collector, Gaya. The Commissioner in revision set aside the order of the Additional Collector against which respondent No.8 filed B.L.T case No. 475 of 2017 and the Chairman, B.L.T. vide order dated 20.04.2018 held that the order of cancellation of Jamabandi was passed on the petition of respondent No.8 but at the subsequent stage he was not made a party. The question regarding the absence of locus standi of the respondent No.8 or his status as imposter or even the malafide nature of the petition filed by him are the issues which could have



been raised and got determined before the authorities including the revisional authority and consequently the Chairman, B.L.T. set aside the order of Commissioner and remanded the case to decide the matter afresh after hearing both sides.

Having considered the facts aforesaid, I do not find any merit in this writ petition and the same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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