

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.944 of 2019

In

CIVIL REVIEW No.276 of 2018

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Rakesh Kumar Sharma S/o Late Ramanand Sharma Vill.- Sindwari, P.s.-
Konch, Distt.- Gaya presently residing at Dr. Zakir Hussain Institute Campus,
P.s.- Kotwali, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through Mr. Chaitanya Prasad, the Secretary, Art, Culture and Youth Department, Govt. of Bihar, Patna
2. Mr. Tara Nand Mahto The Deputy Secretary, Art, Culture and Youth Department, Govt. of Bihar, Patna
3. Mr. Atul Verma the Director, Student and Youth Welfare, Art, Culture and Youth Department (Archaeological Directorate), Govt. of Bihar, Patna
4. Mr. Abhishek Singh the Collector, Gaya
5. The Union of India through its Secretary Mr. Dhruv Sharma, Ministry of Culture C-Wing, Shastri Bhawan, New Delhi
6. Dr. Sathyabhama Badreenath the Director, Archaeological Survey of India, New Delhi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Adv. Mr. Manishdhari Singh, Adv.
For the Opposite Party/s :		Mr. Sarvesh Kumar Singh (AAG 13) Mr. Sakib Ayaz, AC to AAG-13

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-03-2019

Heard learned counsel for the applicant. L.P.A.

Nos.714 of 2016 and 642 of 2016 came to be disposed off and

the following was said by the Division Bench:

“15. Having heard learned senior counsel
representing the appellant in L.P.A. No.714 of 2016,



learned counsel representing the appellants in L.P.A. No.642 of 2016 and learned AAG-13 assisted by learned AC to AAG-13 and upon going through the entire materials available on the record which have been discussed hereinabove, we are of the considered opinion that these cases involve serious disputes over right, title and possession of the appellants over the piece of land. There is also a dispute over the nature of the land as according to the respondents there is no sign of horticulture over the piece of land. The Municipal Corporation, Tekari has already filed a civil suit which is said to be pending in a court of competent jurisdiction where all such questions may be adjudicated after giving an opportunity to the parties to adduce their respective evidences. This Court is, thus, not willing to discuss the issue of right, title and possession in the present writ-appeal.

16. So far as the impugned judgment of the learned Writ Court is concerned, we find that the learned Writ Court is absolutely correct in appreciating the various provisions of the Act whereunder with aim and object to preserve the ancient monument and protected area as defined under the 'Act' the State Government has been empowered to impose certain restrictions on the uses of the land. Proviso to sub-section (1) of Section 18 of the Act clearly mandates that only agricultural activities in the given manner may be permitted. The submission of the petitioners-appellants that if the State Government is developing a garden over the land in question then the government is required to acquire the land in question first and pay compensation to the petitioners cannot be accepted at this stage when the very right, title and possession of the petitioners-appellants have been seriously questioned by the State Government and those are matters pending for adjudication in the civil suit."



A review application was filed that was entertained and then this Division Bench on 9th January, 2019 clarified that the Writ Court or the Appellate Court had not interfered with any rights flowing from the letter dated 12th February, 2013 which the applicant may be entitled to claim.

In our considered opinion, the said clarification dated 9th January, 2019 is not a mandamus, the wilful disobedience whereof is being complained of on the basis of notice which has been pasted outside the premises and which is Annexure-7 to the review application.

In the event the applicant is aggrieved by any action or interference with the cultivatory rights, as claimed, then an appropriate relief can be claimed before the appropriate forum.

In the above circumstances, no contempt is made out at this stage. The contempt application stands rejected.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.03.2019
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