

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24620 of 2019

1. Balram Singh Son of late Hira Singh, Resident of Village- Baghlatti, Police Station- Mohanpur, District-Gaya.
2. Ravindra Singh, Son of late Hira Singh, Resident of Village- Baghlatti, Police Station- Mohanpur, District-Gaya.
3. Dilendra Kumar Singh@ Dilendra Singh, Son of late Hira Singh, Resident of Village- Baghlatti, Police Station- Mohanpur, District-Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar Bihar
2. The District Magistrate-cum-Collector, Gaya-Cum-Superintendent of Survey, Gaya.
3. The Additional Collector, Gaya, District- Gaya.
4. The Deputy Collector Land Reforms, Gaya.
5. The Assistant Settlement Officer, Gaya.
6. The Charge Officer, Municipal Survey, Gaya.
7. The Circle Officer, Gaya.
8. Bihar Waqf Tribunal, Patna through its Chairman.
9. Kumar Rani Sayeeda Khatoon, Waqf Estate No. 360, through its Mutwali Raghubir Singh@ Md. Shaukat Son of late Fateh Singh@ Md. Hashim, Resident of 301, Madhusudan Dham 69/4, T.N. Banerjee Road, Chhajjubagh, P.S. Gandhi Maidan, Patna, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Durga Nand Jha
For the Respondent/s	:	Mr.Sajid Salim Khan (SC-25)
For Board	:	Mr. Helal Ahmad
For Respondent No.9	:	Mr. Rashid Izhar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 17-01-2020 Heard learned counsel for the parties.

2. The petitioners have sought for quashing of an order dated 19.02.2018, passed in Title Suit No. 07 of 2015 by Bihar Waqf Tribunal, Patna, whereby and whereunder an order



of the Deputy Collector Land Reforms, Gaya dated 07.06.2011 has been set aside and according to the petitioners, their properties have been held to be Waqf property and Government records have been directed to be corrected accordingly. It transpires that consequent upon the said order dated 19.02.2018, the Additional Collector, Gaya has passed an order dated 15.04.2019 in Jamabandi Cancellation Case No. 09 of 2018-19, which is also under challenge in the present writ application.

3. The main ground of challenge to the impugned order dated 19.02.2018 passed by the Bihar Waqf Tribunal is that it is an *ex parte* order without ensuring service of notice upon these petitioners.

4. A preliminary objection has been taken on behalf of respondent Nos. 8 and 9 over the maintainability of the writ application on the ground that the petitioners have statutory remedy of revision under *proviso* to sub-section (9) of Section 83 of the Waqf Act, 1995 (hereinafter referred to as 'the Act'). It has also been argued on behalf of the respondents that if according to the petitioners, the order is *ex parte* without service of notice, the petitioners may approach the Tribunal by making an application for setting aside the order of the Tribunal under Order IX, Rule 13 of the Code of Civil Procedure, since the



Tribunal is deemed to be a Civil Court under sub-section (5) of Section 83 of the Act and has same powers as can be exercised by a Civil Court under the Code of Civil Procedure while trying a suit or executing a decree or order. I find substance in the submission made on behalf of the respondents.

5. This application is, thus, disposed of with an observation, in the light of the submission advanced on behalf of the respondents that the petitioners shall be at liberty to approach the Tribunal, seeking setting aside of the impugned order under Order IX Rule 13 of the Code of Civil Procedure, with an application, seeking condonation of delay before the Tribunal.

(Chakradhari Sharan Singh, J)

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