

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3810 of 2018

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Bahuar Chaura Sarvajanic Nyas, Gaya Through Baijnath Sharma Secretary
Son of Late Saryu Sharma Resident of Mohalla and P.O. Chand Chaura, P.S.
Civil Lines, District Gaya, Secretary, Trust Committee.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Superintendent of Police, Gaya.
5. The Anchal Adhikari, Nagar, Gaya.
7. The Bihar State Board of Religious Trusts, Vidyapati Marg, Patna.
8. Smt. Laxmi Devi Wife of Sri Jai Shankar Prasad
9. Smt. Namita Akhauri Wife of Akhauri Nirranjan Prasad
10. Smt. Babita Devi Wife of Sri Amka Raut
11. Smt. Shalini Verma Wife of Manish Kumar Sinha Respondent Nos. 6,7,8,9,
10 and 11 are residents of Mohalla and P.O. Chand Chaura, P.S. Civil Lines,
District Gaya.
12. Smt. Rakhi Kumari Wife of Ranjit Prasad Resident of Village Dakhin
Darwaja, Chand Chaura, P.O. Chand Chaura, P.S. Civil Lines, District -
Gaya.
13. Smt. Rakhi Kumari @ Sunita Sinha Wife of Jay Prakash Narain Resident of
Village Dakhin Darwaja, Chand Chaura, P.O. Chand Chaura, P.S. Civil
Lines, District - Gaya.
14. Smt. Vinita Sinha Wife of Dinesh Kumar Resident of Near Mangla Gauri
Mandir, P.O. Chand Chaura, P.S. Civil Lines, District - Gaya.
15. Smt. Poonam Devi Wife of Uma Shankar Prasad Resident of Mangla Gauri
Road, P.O. Chand Chaura, P.S. Civil Lines, District - Gaya.
16. Smt. Archana Kumari Wife of Dr. Sanjay Kumar Resident of Village
Bakraur, P.O. Bodh Gaya, District Gaya.
17. Smt. Premlata Sinha Wife of Sri Rajeshwar Resident of Village P.O. Kalpa,
P.S. and District Jehanabad.
18. Rita Devi, female, aged about 48 years, W/o Shaligram Prasad, resident of
Laxmi Niwas, Shankar Sonar lane, Mohalla-Nai godown, P.S. Kotwali,
Gaya, District-Gaya, presently residing at Aryan Niwas, Laxmi Complex,
Chand Chaura, Godawari Road, P.O. Chand Chaura, P.S. - Vishnupad, Gaya,
District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mrigendra Kumar, Advocate



For the Respondent no.7 : Mr. Ganpati Trivedi, Sr. Advocate
For respondent no. 9 : Mr. Pramod Kumar, Advocate
For respondent nos. 12. to 14 : Mr. Arbind Kumar Singh, Advocate
For the State : Mr. Mithilesh Kr. Upadhyay, AC to GP-9
For respondent nos. 8, 10,
11, 15, 16 and 18 : Mr. K. N. Choubey, Sr. Advocate
:Mr. Nityanand Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 27-06-2023 **I.A. No. 02 of 2023:**

The aforesaid interlocutory application has been preferred by one Rita Devi for impleading her as respondent no.18-intervenor as she is one of the purchaser from respondent no.16 namely Archana Kumari.

Since there is no objection from either side on the said prayer, the I.A.No. 02 of 2023 is allowed.

Let the Reeta Devi be incorporated as respondent no.18 in the list of respondents.

Heard Mr. Mrigendra Kumar, learned counsel for the petitioner, Mr. Ganpati Trivedi, learned Senior Counsel for the respondent no.7 and Mr. K.N. Choubey, learned Senior Counsel for the respondent nos. 8, 10, 11, 15, 16 and 18 (newly added respondent Reeta Devi) as also Arbind Kumar Singh, for respondent nos. 12 to 14, Mr.Pramod Kumar, respondent no.9 and Mr. Mithilesh Kumar Upadhyay, learned A.C. to G.P.-3.

The prayer is for issuance of a direction upon respondent no.3 to give effect to the judgment/order passed by



the Bihar Hindu Religious Trust Tribunal, Patna on 29.9.2016 in Case No. 11/2013 and on 12.1.2017 in Misc. Case No. 01/2017.

Learned counsel for the petitioner has straight away taken this Court to the counter affidavit filed on behalf of the District Magistrate, Gaya duly sworn by him in which paragraphs 4 to 6 read as follows:

"4. That is be humbly submitted that I have personally gone through the record of the case and directed the C.O., Town Anchal, Gaya that in the light of order dt. 29.9.2016 passed in Bihar Hindu Religious Trust Tribunal case No. 11/12, and order dt. 12.01.2017 passed in Misc. Case No. 01/17 in the matter of Bahuar Chaura Sarvjanik Nayas, Chand Chaura Versus Lakshmi Devi and others, remove the encroachment in accordance with law within two months, followed with compliance report.



5. That due to pendency of Title Suit No. 162/2023/800/2017 before the court of Civil Judge, Senior Division IVth, Gaya the order of the Tribunal, though should not have deferred, but it was not complied for which the deponent begs unconditional apology.

6. That the present status of the suit is it is that subjudiced before the court of Sub Judge IVth, Gaya awaiting service report of the summons sent upon the defendants, and till 02.05.2023 the last date fixed in this case no order of injunctions/status quo against removal of encroachment has been passed by the Civil Judge Senior Division, Gaya".

Mr. K. N. Choubey, learned Senior Counsel representing the aforesaid respondents submits that since the order is available, they have already preferred Title Suit Nos.



800 of 2017, 831 of 2017 and 162 of 2023 before the Appellate Court.

It has further been averred that they will be taking up the matter before the Appellate Court for grant of necessary interim protection.

Learned counsel for the petitioner as also Trust Board submits that once the order was passed in 2016, the District Magistrate, Gaya was duty bound to comply the order in absence of any interim protection granted to the respondents side.

In view of the fact that the respondents have already preferred appeal against the order dated 29.9.2016 (which according to learned Senior Counsel was ex-parte) in which they have the liberty to make prayer for interim protection, this Court will take into account the counter affidavit of the District Magistrate, Gaya by which he has given an undertaking that within three months, the order will be complied which will follow the compliance report.

Learned Senior Counsel as also other counsels for the respondents are well advised to take immediate steps and seek interim protection from the Appellate Court failing which the District Magistrate, Gaya is directed to follow its own



undertaking.

In that background, the writ petition stands
disposed of.

(Rajiv Roy, J)

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