

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15722 of 2016

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Anusuiya Singh Wife of Sri Gautam Singh and daughter of Late Srinandan Prasad Singh, Presently residing at Lakhanchand Villa Gorakhnath Path, Boring Road, P.S. S.K. Puri, District Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector, Muzaffarpur
3. The Chairman, Bihar State Religious Trust Board, Patna
4. The Bihar State Religious Trust Board, Patna through its Chief Executive officer
5. The officer Incharge, Musahari Police Station, District Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy-Gp18
For the Board	:	Mr. Ganpati Trivedi, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 03-04-2023 Heard learned counsel for the petitioner, learned counsel for the State along with learned Senior counsel for the Board Mr. Ganpati Trivedi.

The learned counsel for the petitioner submits that the land in dispute in the present case relates to **Revisional Survey Khata No. 62, Revisional Survey Plot No. 1463 and 1494 having an area 17 Acres and 13 decimals (hereinafter referred as the land) situated at Village Bhikhanpur, Anchal Musahari, District Muzaffarpur.**

The learned counsel next submits that the aforesaid land is ancestral land of the petitioner and the



ancestor of the petitioner had established a private Trust in the name of Sriram Janki Jee Maharaj, Shivjee Maharaj, Laxmi Narayan Maharaj and Sevait Kailash Prasad Singh.

It is next submitted that jamabandi was created in the name of the deities, accordingly, rent receipts are also being issued in the name of the deities. It is next submitted that Kailash Prasad Singh had only one son, namely, Shri Nandan Prasad Singh and petitioner is the only daughter of late Shri Nandan Prasad Singh and grand-daughter of late Kailash Prasad Singh.

It is next submitted that the Trust is a private Trust and was never under the control of the Bihar State of Religious Trust Board (hereinafter referred as the Board) nor the public has any concern with the temple in question, further the land in the last Revisional Survey was recorded in the name of Kailash Prasad Singh. It is next submitted that an area of 0.480 hectares of land was acquired for construction of National High Way No. 77, from the aforesaid land, the Board raised a controversy at the time when compensation was to be paid, for which petitioner has filed CWJC No. 3523 of 2015 which is pending



adjudication.

It is further submitted that in pursuance of a complaint filed by some persons inimical to the petitioner before the Board, the Board communicated to the Collector, Muzaffarpur about the complaint, based on the said communication the Collector, Muzaffarpur got a notice pasted on the property recording that the property belongs to the Board.

The learned Senior counsel appearing for the Board, at this stage, submits that though it has been pleaded that the Board based on a complaint communicated to the Collector, Muzaffarpur leading to pasting of the notice on the property in question, but then the pleadings are completely silent with respect that of the details of letter issued by the Board i.e., the Letter No. etc. nor the notice which is alleged to have been pasted on the property in question is on record, this amply demonstrates that the pleadings are made only for making out a case without any material on record to substantiate the same.

The learned counsel for the petitioner next submits that on request of the Land Acquisition Officer,



Muzaffarpur, an inquiry was made by the Deputy Collector, Land Reforms, Muzaffarpur and he submitted this Report dated 08.08.2013 (Annexure-2) recording that there is no Public Trust, there is no temple and the public has nothing to do with the land in question. The learned counsel submits that the Report of the D.C.L.R. with clarity records that the land in question is not under the Board nor it is a Public Trust nor any person has any concerns with the land and there is no temple on the land, it is thus submitted that the Board is unnecessarily interfering with the possession of the petitioner when the Trust in question is not a Public Trust.

The learned Senior counsel for the Board at this juncture again interjects and submits that from the Inquiry Report of the D.C.L.R., it is also clear that the jamabandi created in the name of Kailash Prasad Singh is without any order, it is thus submitted that it absolutely does not stand to reason that when earlier jamabandi was created in the name of deity then on what basis the same changed and the land in question got mutated in the name of Kailash Prasad Singh.

The learned counsel for the petitioner rebuts the



submission of the learned Senior counsel for the Board and submits that in similar circumstance with regard to some other lands of the petitioner a controversy was raised by the Board, which compels the grand-mother of the petitioner, namely, Smt. Saraswati Devi, to file Title Suit No. 689 of 1988 in the Court of learned Sub-Judge, Patna for declaration that Sriram Janki temple situated at Ghotahi @ Baruara P.S Bahadurpur was a private Trust which was registered on 15.10.1946, which was executed by Smt. Shyam Sundari Devi, mother of Smt. Saraswati Devi.

It is submitted that the learned Sub-Judge, Patna decrees the suit in favour of the grand-mother of the petitioner by judgment and decree dated 03.10.1994 (Annexure 3) wherein it was clearly held that the Board has no concern with the land in question and the Trust is a private Trust. The learned counsel thus submits that similarly in the present case also, without there being any determination by a competent authority with regard to the nature of the Trust and also that Trust being a private Trust, still the petitioner is being disturbed by the Board in garb of a complaint, which led to pasting of notice by Collector as



recorded hereinabove, thus necessitating the filing of the writ petition with the prayer that the respondents be directed not to disturb the possession and enjoyment of the petitioner and purchasers of land described in paragraph no. 3 of the writ petition pending final adjudication of the writ application.

The learned Senior counsel appearing for the Board submits that from the pleadings made in the writ application it appears that everything is based on apprehension as the relevant documents which could have pointed to the fact that the possession of the petitioner is being disturbed on land has not been brought on record like the order passed by the Court based on which a notice came to be pasted on the property by the Collector as pleaded, learned Senior counsel for the Board next submits that if the petitioner is aggrieved by the action of the Board then the petitioner can represent before the Board seeking adjudication on the matter.

It is further submitted that as far as Annexure-3 is concerned, the same does not relate with the land in question and thus cannot be yardstick for making a



submission that every property with the petitioner has, is a private property.

Considering the submissions made by the learned counsel for the parties, the Court is *prima facie* of the opinion that in the nature of pleadings made in the writ application, the matter cannot be adjudicated, as such, the petitioner is given liberty to move before the Board by filing a detailed representation seeking redressal of a grievance based on the pleadings made in the writ application or any other issue with the petitioner intends to raise.

(Satyavrat Verma, J)

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