

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18563 of 2022

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Sonu Ram, Son of Bhrigurashan Ram Resident of Village-Mishra Bandhaura,
P.O. and P.S.-Vijayipur, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
2. The Collector-Cum-District Magistrate, Gopalganj.
3. The Circle Officer, Vijayipur, District-Gopalganj.
4. The Land Acquisition officer, Gopalganj, District-Gopalganj.
5. The Superintendent of Police, Gopalganj, District-Gopalganj.
6. The Bihar Bhoodan Yagya Committee through its Chairman at Gardanibagh
P.O. , P.S. and Distt- Patna.
7. The Chairman, Bihar Bhoodan Yagya Committee at Gardanibagh, Patna.
8. The Karyalay Mantri Bihar Bhoodan Yagya Committee, Gopalganj, P.O. and
P.S. and Distt. Gopalganj,

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16798 of 2022

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1. Ramrekha Ram, son of Shivpujan Ram @ Shivpujan Harijan, Resident of
Village- Mishra Bandhaura, P.O. and P.S.- Vijayipur, District- Gopalganj.
2. Hiralal Ram, son of Shivpujan Ram @ Shivpujan Harijan, Resident of
Village- Mishra Bandhaura, P.O. and P.S.- Vijayipur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
2. The Collector-cum- District Magistrate, Gopalganj.
3. The Circle Officer, Vijayipur, District- Gopalganj.
4. The Land Acquisition Officer, Gopalganj, District- Gopalganj.
5. The Superintendent of Police, Gopalganj, District- Gopalganj.
6. The Bihar Bhoodan Yagna Committee, through its Chairman, At-
Gardanibagh, P.O., P.S. and Distt.- Patna.
7. The Chairman, Bihar Bhoodan Yagna Committee, at Gardanibagh, Patna.
8. The Karyalay Mantri, Bihar Bhoodan Yagna Committee, Gopalganj.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 3441 of 2023

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Munna Ram, son of Shyam Bihari Ram @ Sambali Harijan @ Sambali Ram,
Resident of Village-Mishra Bandhaura, P.O. and P.S.-Vijayipur, District-
Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
2. The Collector-cum-District Magistrate, Gopalganj.
3. The Circle Officer, Vijayipur, District-Gopalganj.
4. The Land Acquisition Officer, Gopalganj, District-Gopalganj.
5. The Superintendent of Police, Gopalganj, District-Gopalganj.
6. The Bihar Bhoodan Yagya Committee through its Chairman, At-Gardanibagh, P.O. and P.S. and District-Patna.
7. The Chairman, Bihar Bhoodan Yagya Committee, At-Gardanibagh, P.O. and P.S. and District-Patna.
8. The Karyalya Mantri, District Bhoodan Office Gopalganj, Bihar Bhoodan Yagya Committee at Arar More, Gopalganj, P.O. and P.S. and District-Gopalganj.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 3472 of 2023

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Paras Ram, Son of Lalchandra Ram @ Lalchand Harijan, Resident of Village-
Mishra Bandhaura, P.O. and PS- Vijayipur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
2. The Collector-cum-District Magistrate, Gopalganj.
3. The Circle Officer, Vijayipur, District- Gopalganj.
4. The Land Acquisition Officer, Gopalganj, District- Gopalganj.
5. The Superintendent of Police, Gopalganj, District- Gopalganj.
6. The Bihar Bhodan Yagya Committee, through its Chairman, at Gardanibagh, P.O. and P.S. and District- Patna.
7. The Chairman, Bihar Bhoodan Yagya Committee, At- Gardanibagh, P.O. and P.S. and District- Patna.
8. The Karyalaya Mantri, District Bhoodan Office Gopalganj, Bihar Bhoodan Yagya Committee at Arar More, Gopalganj, P.O. and P.S. and District-Gopalganj.



... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 18563 of 2022)

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Advocate

For the Respondent/s : Mr.Raj Kishore Roy (GP18)

For the BBYC : Ms. Alka Verma, Advocate

(In Civil Writ Jurisdiction Case No. 16798 of 2022)

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Advocate

For the Respondent/s : Mr.Raj Kishore Roy (GP 18)

For the BBYC : Ms. Alka Verma, Advocate

(In Civil Writ Jurisdiction Case No. 3441 of 2023)

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Advocate

For the Respondent/s : Mr.Md. Khurshid Alam (AAG 12)

For the BBYC : Ms. Alka Verma, Advocate

(In Civil Writ Jurisdiction Case No. 3472 of 2023)

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Advocate

For the Respondent/s : Mr.Raj Kishore Roy (GP18)

For the BBYC : Ms. Alka Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 27-09-2023

Since the writ petitioners of all the cases
aforementioned have the same grievances with the same set of
respondents, all the cases are being taken up together.

2. Heard learned counsel for the petitioners,
learned counsel for the State, and counsel for the Bihar Bhoodan
Yagna Committee.

3. Learned counsel for the petitioners in all the
cases submits that petitioners are allottee of land from Bhoodan
Yagna Committee appertaining to Khata No. 57, Plot No. 82
area of total Rakba, 04 Acres, 92 decimal. He further submits
that the said land was in the nature of Gair Mazarua Malik land



and the malik i.e. Hathua Maharaj had donated this land for the purpose of donation to Sri Aacharya Vinoba Bhave. The State of Bihar has enacted a law namely the Bihar Bhoodan Yagna Act, 1954 (hereinafter referred to as the 'Act of 1954') with a view to control the donations. According to the said Act, after a donation by the landlord, every piece of land was subject to an order from the Revenue Officer. He further submitted that his land was also subject to confirmation from the revenue Officer vide Case No. 11 of 1970-71, District- Saran in which a proposal was made for confirmation of the land.

4. Learned counsel further submits that the Bhoodan Yagna Committee has allotted the land to the petitioners and in this regard, the petitioners have placed on record the certificate of *dan* (donation) which are annexed as Annexure-1 in the respective writ petitions but at the instance of local mukhiya, the State officials are inclined to dispossess the petitioners from the land in question which is absolutely illegal.

5. Learned counsel for the Bhoodan Yagna Committee has filed a counter affidavit and supported the pleadings of the petitioners and in the counter affidavit, has annexed the order sheet Annexure-A by which it is crystal clear that the proposal for confirmation of *dan* (donation) was made



for the land appertaining to Khata No. 57, Plot No. 82, 143, 55, 79 and 80 total area 06 Acres, 66 decimal and out of which lands situated in Khata No. 57, Plot Nos. 55, 79, and 80 total of 01 Acre, 42 decimal were not confirmed for donation but the rest of the land 05 Acres, 14 decimal were approved by the revenue officials Deputy Collector Land Reforms, Gopalganj U/s 11 (iv) of the Act. In the said order, Khata No. 57, Plot No. 42, and 143 were mentioned which was approved under section 11 (4) of the Act of 1956.

6. Learned counsel for the Bhoodan Yagna Committee submits that Plot No. 42 was never sent for consideration. Actually, the word Plot No. 42 has been wrongly typed instead of Plot No. 82 which is the subject matter of the present case.

7. Learned counsel for the State has filed a counter affidavit and taken a plea that the Joint Director, Agriculture has issued a letter to the Collector, Siwan in which it has been decided that the ex-landlord cannot settle *Gair Mazarua* land by way of donation which has been vested in the State of Bihar after enactment of vesting of zamindari in the State. The said letter No. is 970 dated 23.08.2016.

8. Learned counsel also submits that the State has



annexed Annexure-A to the counter affidavit in which the disputed Plot No. 82 has been shown as *Gair Majarua Malik* land in the Cadastral Survey records of right and in this background, there is no case of the petitioners and the writ petitions may be dismissed.

9. Interlocutory Application No. 01 of 2023 has been filed in CWJC 3472 of 2023 by the Managing Director of Ms. Savitri Devi Techno Pvt. Ltd. to add him in the present writ petition as respondent No. 9, on the ground that the land appertaining to Khata No. 128, Plot No. 79 area 40 decimal on which the intervenor was directed to construct police station by virtue of work tender No. 09/SBD/2022-2023. According to the petitioners, since the land in the present writ petitions is the same on which he has been instructed by the State officials by virtue of tender to construct the police station. Counsel for the intervenor submits that if the intervenor shall not be heard then irreparable loss shall be caused to him.

9.1 Upon perusal of the documents (interlocutory application), it transpires that in all the four writ petitions, the subject matter is Khata No. 57, Plot No. 82 whereas, the intervenor petitioners submits that he is interested in Khata No. 128, Plot No. 79. This Court is of the view that the subject



matter of the interlocutory application and the subject matter of the writ petitions are different, therefore, no need to allow this interlocutory application. As such, the interlocutory application is rejected.

10. Upon going through the pleadings and hearing the arguments of the parties as well as the position of law, it is made clear to this Court that the Bihar Bhoodan Yagna Act, 1954 (Act No. 22 of 1954) has been enacted with special purpose i.e. to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave and to provide for the settlement of such lands with landless persons or with a village community, gram panchayat or with a co-operative society organized by the Bhoodan Yagna Committee whereas it is expected to facilitate the donation of lands in connection with Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave to provide for the settlement of such lands with landless persons and it was the desire of Sri Acharya Vinoba Bhave that land donated to him in connection with Bhoodan Yagna prior to commencement of this Act shall be transferred to and vests in Bhoodan Yagna Committee. According to the scheme, every such donation made to Sri Acharya Vinoba Bhave was subject to approval by the Revenue Officers of the Govt. of Bihar. Section



11(4) of the Act of 1956 is a methodology provided under the Act by which on receipt of the Bhoodan Yagna *dan Patra*, the revenue Officers shall have to do the needful and pass an order about the approval of the said *dan Patra* and, subsequently, after compliance of confirmation U/s 11 (4) of the Act of 1956, a certificate of *dan Patra* has to be issued to every persons to which the donation under this law has to be made.

11. Here in the present case, as per the pleadings of the Bihar Bhoodan Yagna Committee, the present land along with other lands were presented for approval before the then Deputy Collector Land Reforms, Gopalganj who under case No. 11 of 1970-71 has granted approval for part of the land and rejected the approval for part of the land. It transpires to this Court that in the proposal, Plot No. 82 has been mentioned but in the final part of the order, a typing mistake occurred and instead of Plot No. 82, Plot No. 42 has been typed. This Court reached on this conclusion due to the reason that all Plots including Plot No. 82 have been mentioned except Plot No. 42 in the proposal and in the decision, Plot No. 42 has been mentioned instead of Plot No. 82.

12. From the annexures of all the writ petitions, it transpires to this court that separate *dan Patra* has been allotted



to all the petitioners. In this view of the matter, this Court is of the opinion that petitioners are valid acceptors of the said land completely in accordance with the law.

13. Learned counsel for the State on the other hand relied on a letter which has been issued by the Joint Director, Agriculture bearing Memo No. 970 (7) dated 23.08.2016 and on the basis of which the State has taken the stand that after vesting of zamindari, the landlord were not entitled to donate *Gair Mazarua Malik* land as the zamindari was vested in the State itself.

14. In this regard, this Court is of the opinion that it is a letter that has been prepared without consideration of the Bihar Bhoodan Yagna Act, 1954. When a letter and a statute appears to be in contradiction then in that case admittedly the statute shall prevail and not the letter. In this view of the matter, this Court is of the opinion that there is no substance in the argument of the State by virtue of the said letter No. 970 (7) dated 23.08.2016.

15. As such writ petitions are allowed.

16. It is made clear that under the present law holding property is not the fundamental right. If any land which is of utility to the State, the State under the existing law may



acquire the same and for that, the State has to follow the rule of the law of the land, time being enforced. If the State is of the opinion that this land is usable for the State, then in that case, the State is free to take the land by virtue of acquisition of the same.

17. It is made clear that no coercive action shall be taken against the petitioners including removing them from the land in question over which they are in lawful possession, except following the due process of law.

(Dr. Anshuman, J.)

Divyansh/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	06.10.2023
Transmission Date	

