

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9824 of 2015

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Mrigendra Pratap Sahi Son of Late Maharaja Bahadur Gopeshwar Prasad Sahi, Resident of Hathwa House, P.S. - Gandhi Maidan, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Gopalganj.
3. The Additional Collector, Gopalganj.
4. The Sub - Divisional Officer, Hathwa, Gopalganj.
5. The Deputy Collector Land Reforms, Hathwa, Gopalganj.
6. The Circle Officer, Hathwa, Gopalganj.
7. Dr. Rajendra Prasad Eden High School, Hathwa, Gopalganj through its Head Master, Dr. Rajendra Pras

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigendra Kumar
For the Respondent/s	:	Mr. Ravi Kumar, (AC to GP-13)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 07-08-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ application has been filed for quashing the letter no. 32 dated 25.05.2015 on the basis of entry made in *Khatiyani* as Sahan School the Circle Officer, Hathwa, Gopalganj has ordered the land containing the *Mahogani* tree in question be handed over to the school and further for restraining the respondents from making any interference in utilization of the lands appertaining to Plot No. 210, Khata No. 178, Tauzi No. 3749, Village- Ratanchak Mahal Gambhirpur, P.S. Mirganj,

District- Gopalganj.

3. Learned counsel for the petitioner submits that the said *Mahogani* tree which was fallen on the ground on the land in question on which the petitioner is continuing in constant possession, since long. Counsel further submits that the present writ application has been filed for matters relating to *Mahogani* tree fallen in Plot No. 210 in Village- Ratanchak Mahal Gambhirpur, P.S. Mirganj, District- Gopalganj. Counsel submits that the said property in question belongs to Hathwa Estate of which the petitioner's forefathers were the proprietor and the same has never been vested in the State of Bihar rather the matter was subject to ceiling proceeding and land belongs to the petitioner's family.

4. Learned counsel for the petitioner further submits that the said land on which the *Mahogani* tree is there was recorded as *Gairmazarua Malik* in the year, 1917 and during the said period, the petitioner's forefathers were the *Malik*. Counsel further submits that the fallen *Mahogani* tree was standing on different plots of the petitioner in the year 1961-62 and the case was instituted by the Manager of Hathwa Raj claiming over the same which was registered as Case No. 10 of 1961-62 and finally the petitioner's family was allowed to

utilize the *Mahogani* tree vide order dated 10.07.1963 passed by the S.D.O., Gopalganj.

5. Learned counsel for the petitioner further submits that in the year 1986, the dispute had cropped up and the learned Additional Collector, Gopalganj had allowed the petitioner to utilize the *Mahogani* tree of the different lands belonging to the petitioner. Counsel further submits that in the year, 1992, a dispute has cropped up regarding *Mahogani* tree which was also planted by the ancestors of the petitioner before vesting of the Estate into the State of Bihar. The said matter was resolved before this Hon'ble Court in C.W.J.C. No. 8947 of 1992 vide order dated 08.01.1993 and after hearing, this Hon'ble Court had stayed the auction and directed the Collector, Gopalganj to decide the matter.

6. Learned counsel for the petitioner further submits that after order of this Hon'ble Court, the matter was placed before the Collector, Gopalganj who has referred the matter before the S.D.O, Hathwa and the S.D.O, Hathwa has decided the matter before him. Counsel further submits that the S.D.O., Hathwa has passed the order in favour of the petitioner to utilize the *Mahogani* tree.

7. Learned counsel for the petitioner further

submits that on Plot No. 210, a *Mahogani* tree had fallen in cyclone and the Circle Office, Hathwa, Gopalganj was not allowing the petitioner to take away the *Mahogani* tree, due to which the present dispute has arisen. It is the stand of the State that the said Plot No. 210 is of 4.34 acres, out of which ancestors of the petitioner has consented to give to a school 3.34 acres of lands and retain its 1 acre with Hathwa Estate.

8. Learned counsel for the petitioner further submits that the Eden High School has been established in the year 1881 and this school is situated in 3.34 acres of land. The Government has never taken any step acceding to the request of Hathwa Raj. Counsel submits that the petitioner himself offered 3.34 acres of land to the Government which is Annexure- 9 to the writ petition. Counsel further submits that the petitioner is still willing to donate the said land, subject to the condition that the school's name be changed and this school may be open in the name of the ancestors of the petitioner for which they have made application in the year 1971. In the year 1978 vide Annexure- 10 also, the mother of the petitioner was willing to donate the land 3.34 acres to the school. In this regard, letter to the Education Minister was also written. Again in the year 1984, they have written letter to the Education Department but nothing

happened. When the *Mahogani* tree has fallen, the petitioner was stopped by the Circle Officer, Hathwa, Gopalganj not to take the said *Mahogani* tree which was alleged to be kept on his land.

9. Learned counsel for the State has filed the counter-affidavit and categorically mentioned that the total area of the Plot No. 210 which is in question is 4.34 acres. The stand of the State is that the ancestors of the petitioner had consented to give total 3.34 acres of land of Plot No. 210 to the school and had not written 1 acre area of Plot No. 210 with Hathwa Estate. The total area of Plot No. 210 has been given to Sahan School as Khatiyani.

10. Learned counsel for the State also submits that C.W.J.C. No.8947 of 1992 in which the order has been passed in favour of the petitioner dated 10.09.1992 was not for the land appertaining to Plot No. 210 rather this order was appertaining to Plot Nos. 221 and 223. Therefore, the said order shall not help the petitioner in any manner.

11. After going through the pleadings of the parties and upon hearing them, it is crystal clear that the land belongs to Plot No. 210 are ancestors of the petitioner having total area 4.34 acres about which the stand of the State is that they have

consented to give total 4.34 acres of land to the school, whereas the annexures attached with this writ petition indicates that they have offered only 3.34 acres of land for the school and at different time *i.e.* in the year 1978, 1981, 1984 and 1985, a series of time they have offered to give their land for the purpose of school.

12. In this regard, it is admitted that it was merely an offer to gift the land to the school but the said gift has not been accepted by the Estate as per the pleadings of the parties.

13. In this background, the petitioner is directed to represent before the Collector, Gopalganj afresh in this matter including all the documents which he has annexed in the writ petition and the Collector, Gopalganj after going through the entire documents in detail shall pass a reasoned and speaking order afresh, if it has been found that the said land has been donated in favour of the school or in favour of the Government, then petitioner shall have no claim but in case, there is no such gift document created or accepted by the Government, then the case of the petitioner shall be decided in accordance with law. It is made clear that prior to passing the order, the school shall also be heard in detail.

14. The Collector, Gopalganj by passing the order

shall take care of that this Court has not decided the title in favour of the petitioner but on the basis of documents, he is free to pass any order in accordance with law.

15. With this observation, the present writ application stands disposed of.

(Dr. Anshuman, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.08.2023
Transmission Date	NA