

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.395 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Madhubani

Deodhira Sanskrit Uchcha Vidyalaya Deep, Madhubani through its present Headmaster Sri Govind Nath Jha, (Male, aged about 57 years) son of late Dev Nath Jha, R/o village and Post- Deep, Via- Jhanjharpur, P.S. Madhepur, Block- Lakhsaur, District- Madhubani (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhubani. Bihar
2. The Superintendent of Police (SP) Madhubani Bihar
3. Sub-Divisional Magistrate (SDM) Jhanjharpur, Madhubani Bihar
4. Sub-Divisional Police Officer (SDPO) Jhanjharpur, Madhubani Bihar
5. The Thana-Incharge Lakhsaur (R.S.O.P.) Police Station, Madhubani Bihar
6. Sobhit Mandal Son of Yugeshwar Mandal Resident of village and Post-Deep, Via- Jhanjharpur, P.S.- Lakhsaur (RSOP), Block- Lakhsaur, District- Madhubani (Bihar).
7. Rameshwar Rai Son of Sunder Rai Resident of village and Post-Deep, Via- Jhanjharpur, P.S.- Lakhsaur (RSOP), Block- Lakhsaur, District- Madhubani (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Nath Jha
For the Respondent/s : Mr. Manish Kumar GP 4

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 21-08-2023 1. The present writ application has been filed for a direction to the respondent no. 2 i.e. Superintendent of Police, Madhubani to protect the property of the school namely, Deodhira Sanskrit Uchch Vidyalay, Deep, Madhubani and to protect the life of the teachers, staffs and students of the school inasmuch some antisocial elements are threatening the management of the school as well as staffs, students etc. and trying to grab the land of the school forcibly.



2. According to learned counsel for the petitioner, the petitioner school i.e. Deodhira Sanskrit Uchch Vidyalaya, Deep was established in the year 1941 for imparting Sanskrit education in the village- Deep, District -Madhubani and the same is recognized by the Bihar Sanskrit Shiksha Board, Patna. A piece of land measuring 01 Acre 16 decimal was donated to the school in 1956 by the donor, who are heirs of the recorded tenant / Grih Lata Ojhain and since then the land on which the school has been running is in possession of the petitioner-school. The land is situated in Khata No. 955 (old), Plot No. 9334 (old) corresponding to Khata No. 3184 / 3114 (new) , Plot No. 9318 (new). Learned counsel submits that at one point this court had occasion to consider the dispute in CWJC No. 5049 of 2014 holding that the learned C.O., Lakanaur had rightly found that the land in question as involved in encroachment proceedings belongs to the petitioner-school. The said encroachment proceeding was initiated against some encroachers including the respondent no. 7 herein. The aforesaid writ application preferred by the respondent no. 7 was dismissed on 24-08-2017 by a detailed order passed in favour of the petitioner-school considering all the questions raised before the Hon'ble High Court. A copy of the order has been annexed at



Annexure - 1 to the writ application. Pursuant to the order passed in MJC No. 3132 of 2017 on 29-08-2019 encroachment upon the land of the school was removed by evicting the encroachers therefrom and possession upon the land belonging to school was restored on 19-09-2019. It has further been argued that respondent nos. 6 and 7 with the help of their henchmen and criminals are again trying to encroach the land of the school and are interfering into peaceful possession of the school over the land in question. The antisocial elements have attempted many times to physically assault the teachers of the school including the Headmaster and also disturbing the staffs and students of the school. A complaint has been preferred by the petitioner before the S.P., Madhubani on 08-11-2019 which is at Annexure- 5 to the writ application.

3. On the other hand, learned counsel for the State referring to the counter affidavit submits that survey authorities made local inspection and found possession of the State of Bihar and in the Revisional Survey Khatian it has been recorded in the name of “Anabad Bihar Sarkar” Kind- “Bhinda” appertaining to Khata No. 3114 , Khesra No. 9318 having an area of 99 decimal. A copy of the Khatian has been annexed as Annexure -R-1/2 to the counter affidavit. In other words the State is



claiming that the land in question belongs to the State of Bihar.

4. Learned counsel for the petitioner in reply submits that insofar Revisional Survey Khatian is concerned, there was wrong entry made in the Khatian and the land in question was wrongly recorded as “Anabad Bihar Sarkar” which has already been corrected / modified vide order 12.05.2009 passed under Section 106 B.T. Act vide Case No. 2665 of 2005 by the Settlement Officer, Jhanjharpur (Madhubani). The order passed in Case No. 2665 of 2005 was against the State of Bihar accordingly entry made in the Revisional Survey Khatian has been corrected which would be evident from Annexure – 8 to the rejoinder filed by the petitioner. Learned counsel further submits that Jamabandi has been created in favour of the petitioner - school and the land revenue is being paid by the petitioner since long and land rent receipts are being issued in its favour.

5. Upon hearing rival submission advanced by learned counsel appearing for the petitioner as well as State, it is clear that the petitioner as well as State are claiming their right over land in question.

6. Be that as it may, the contention of the petitioner that some antisocial elements having no right, title and interest



upon the land and who were evicted from the land in question pursuant to order passed by Circle Officer and the direction issued by this Court in MJC No. 3132 of 2017, have been creating disturbance in the rightful enjoyment of the land by the petitioner - school.

7. Taking into consideration the nature of prayer made in the writ application and the fact that petitioner has submitted a representation before the Superintendent of Police, Madhubani in this regard, the respondent no. 2 / Superintendent of Police, Madhubani is directed to look into the matter and after hearing the concerned parties may dispose the representation in accordance with law within a period of three months from the date of receipt / production of a copy of this order.

8. It goes without saying that if the State of Bihar is claiming right, title & interest upon the land in question, the State is free to take necessary legal steps in accordance with law in this regard.

9. With the aforesaid observation and direction, this writ application is disposed of.

praful/-

(Anil Kumar Sinha, J)

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