

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9112 of 2023

=====

Pawan Kumar Chirania, S/o Late Bajrang Lal Chirania, Resident of Mohalla Chunnilal Tola, Sujaganj, P.S. Kotwali, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The Chairman, Bihar State Sunni Waqf Board.
2. The Chief Executive Officer Bihar State Sunni Waqf Board.
3. Inayat Hussain Waqf Estate 159, Saha Market, Khalifabagh, Bhagalpur, through its Mulawalli

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Majid Mahboob Khan, Advocate
For the Respondent/s : Mr.Md. Helal Ahmad, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 19-12-2023

Heard Mr. Majid Mahboob Khan, learned counsel appearing on behalf of the petitioner and Mr. Md. Helal Ahmad learned Advocate for the respondents.

2. Petitioner has filed the writ petition *inter alia* for following relief(s):-

“That this Civil Misc. application has been filed against the order dated 15.03.2023 *passe din* Misc. Case No.08/2021 by the Bihar State Waqf Tribunal, Patna, whereby and whereunder petitioner’s application challenging the order dated 12.02.2021 passed by the Chief Executive Officer, Sunni Waqf Board, has been dismissed without applying of judicial mind.”

3. Learned counsel appearing on behalf of the



petitioner submits that petitioner is the tenant of the shops which were provided by the Mutawali in terms of the lease deed which is for a period of 11 months and after its expiry, the occupant's shop shall be deemed to be vacated under Section 54 of the Waqf Act. Learned counsel further submits that in spite of such provision and the terms and conditions of the lease deed, i.e., life for the shop is only for 11 months and after its expiry, the Mutawali allowed the petitioner to remain in the area provided by it in perpetuity by the action of the Mutawali. Therefore, the petitioner's right cannot be defeated, which the Executive Officer of the Bihar State Sunni Waqf Board has not taken into consideration, while passing order dated 27.10.2020. On these grounds, learned counsel submits that he may be given an opportunity to place his case before the Bihar State Sunni Waqf Board.

4. Mr. Md. Helal Ahmad, learned counsel appearing on behalf of the respondents submits that mother of the petitioner was the tenant and after death of his mother, lease deed was not renewed, nor any lease deed was executed in favour of the petitioner and, as such, he petitioner has no right to claim that he is the tenant of the leased property which was leased out to his mother and the said fact has been well



considered and discussed by the Executive Officer of the Waqf Board.

5. Having considered the rival submissions made on behalf of the parties, as well as, the fact that the petitioner was allowed to continue in the premises, which was allotted to his mother, even after his mother death, it will be deemed that by action of the Mutwali petitioner's right has been created. The Waqf Board must also consider the fact that the leased out premises is the only source of income of the petitioner and to sustain his life, case of the petitioner may be considered in accordance with law taking into consideration the mandate of Article 21 of the Constitution of India.

6. With aforesaid observation and direction, the writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2023
Transmission Date	NA

