

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15445 of 2021

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Muzaffar Hasan Son of Late Ibnul Hasan resident of Mohalla- Imamganj,
Peer Momin Sah Mazar, Nala Road, P.S.- Muzaffarpur Town, District-
Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Department of Revenue and Land Reform,
Government of Bihar, Patna
3. The Commissioner, Tirhut Division, Muzaffarpur
4. The District Magistrate, Muzaffarpur, District- Muzaffarpur
5. The Senior Superintendent of Police, Muzaffarpur, District- Muzaffarpur
6. The Sub- Divisional Officer, East Muzaffarpur, District- Muzaffarpur
7. The Circle Officer, Mushahari, District- Muzaffarpur
8. The Station House Officer (SHO), Muzaffarpur Town Police Station,
District- Muzaffarpur
9. The Bihar State Shia Waqf Board, 2nd Floor Haj Bhawan, 34 Ali Imam Path
(Harding Road), Patna
10. The Chief Executive Officer, Bihar State Shia Waqf Board, 2nd Floor Haj
Bhawan, 34 Ali Imam Path (Harding Road), Patna
11. Mir Shujauddin Waqf Estate (Waqf No- 80), Kanhauli, Imamganj, P.S.-
Muzaffarpur Town, District- Muzaffarpur through its Mutwalli namely
Sayed Amjad Hussain
12. The Headmistress, Mahila Shilp Kala Bhawan Plus 2 Balika Vidyalaya,
Chandawara, P.S.- Muzaffarpur Town, District- Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anis Akhtar, Advocate Mr. Mahtab Alam, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan (SC-25)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

10 21-08-2023 1. The present writ petition has been filed
seeking the following reliefs:-

*“1.[A] For issuance of an
appropriate writ, order or direction*



quashing the order contained in Memo No. 2602 dated 14.08.2021 (Annexure-6) issued by the Sub-Divisional Officer, Muzaffarpur East, Muzaffarpur whereby 23-08-2021 at 10:00 PM. has been fixed for removal of encroachment from land adjacent to Mahila Shilp Kala Bhawan +2 Balika Vidyalaya, Chandawara, P.S.-Muzaffarpur Town, District-Muzaffarpur without verifying the record as well as fact that said Khesra No-3384 (Old) is waqf property and the same has been registered in the Register-26 of Bihar State Shia Waqf Board, Patna as Mir Shujauddin Waqf Estate No-80, Kanhauli, Imamganj, District-Muzaffarpur and present petitioner and others are bonafide tenants of said waqf estate, as such order contained in Memo No-2602 dated 14-08-2021 issued by the Sub-Divisional Officer, Muzaffarpur East, Muzaffarpur is without jurisdiction and without authority of law and in complete violation of principal of natural justice.

[B] For issuance of an appropriate



writ, order or direction directing the respondents not to interfere in peaceful possession of petitioner & others over Khesra No- 3384 (Old) which is waqf property and part of Mir Shujauddin Waqf Estate No-80, Kanhauli, Imamganj, District-Muzaffarpur and present petitioner and others are bonafide tenants of said waqf estate."

2. At the outset, the learned State counsel has pointed out that an encroachment proceeding vide Encroachment Case No. 2 of 2007-08 had already been initiated earlier by the learned Court of Deputy Collector Land Reforms, East Muzaffarpur, wherein the petitioner was also one of the parties and after giving an opportunity to him to file objections, the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 was passed on 15.04.2008, holding the petitioner and others to be encroachers, nonetheless, it appears that no action could be taken for removal of the encroachment in question resulting in one Amresh Kumar filing a Public Interest



Litigation before the learned Division Bench of this Court vide CWJC No. 20179 of 2019, which was disposed off by the learned Division Bench of this Court, by a judgment dated 11.12.2020, granting liberty to the petitioner therein to avail such other alternative remedies as are otherwise available under the law and in case such remedies are taken recourse to, the appropriate forum shall deal with the petition of the petitioner therein and do the needful after hearing the affected parties.

3. It is in this background that the learned Court of Collector-cum-District Magistrate, Muzaffarpur had initiated a fresh encroachment proceedings vide Encroachment Case No. 3 of 2021-22, without realizing the fact that already encroachment proceedings had been initiated and concluded qua the land in question wherein the petitioner had been held to be an encroacher along with others.

4. In view of the aforesaid, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to challenge the aforesaid order



dated 15.04.2008 passed by the learned Court of Deputy Collector Land Reforms, East Muzaffarpur in Encroachment Case No. 2 of 2007-08 by filing appropriate Appeal. Liberty, so sought, is granted.

5. It is needless to state that in case an appeal is filed within a period of four weeks from today, the same shall be heard on merits without the appellate authority being impeded by the issue of limitation and then he shall pass a reasoned and a speaking order thereon, in accordance with law, forthwith and till then status quo existing as on today qua the land/house of the petitioner in question shall be maintained.

6. It may be clarified for the benefit of the parties that the Encroachment Case No. 3 of 2021-22 is a deemed extension of the earlier Encroachment Case No. 2 of 2007-08 and it appears that the same has only been initiated for the purposes of execution of the aforesaid order dated 15.04.2008 passed under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 by the learned Deputy Collector Land Reforms, East



Muzaffarpur, earlier.

7. The writ petition stands disposed off on
the aforesaid terms.

(Mohit Kumar Shah, J)

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