

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12474 of 2023

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1. Akhilesh Kumar Ray S/o Jitendra Ray R/o Village- Rajapur, District- Muzaffarpur, P.O.- Dubaha, P.S.- Sakra, Bihar- 843104.
 2. Abu Fazal, S/o Abdul Hafeez R/o Zakaria Colony, Sadpura, P.O.- Dubaha, P.S.- Sakra, District- Muzaffarpur, Bihar- 842002.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Patna, Bihar.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar.
3. The Secretary, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Muzaffarpur, Bihar.
5. The Circle Officer, Sakra, District- Muzaffarpur.
6. The Superintendent, Bihar State Board of Religious Trusts, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vishwajeet Kumar Mishra Mr. Rohit Kumar Tripathi, Advocates
For the State	:	Mr. Raj Kishore Roy, GP 18
For Religious Trust Board	:	Mr. Shekhar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-09-2023 Heard Mr. Vishwajeet Kumar Mishra, learned counsel

for the petitioners, Mr. Raj Kishore Roy, learned G.P. 18 for the

State and Mr. Shekhar Singh, learned counsel for the Bihar State

Board of Religious Trust.

2. The petitioner while invoking the extraordinary

jurisdiction of this court under Article 226 of the Constitution of

India seeks the following reliefs :-

*“1/A That this is an application
being filed for issuance of an appropriate
writ/order/direction upon the Respondent*



Authorities to remove encroachment on the lands belonging to Bramhasathan temple by implementing the direction issued to the District Magistrate and S.S.P., Muzaffarpur by the Superintendent, Bihar State Board of Religious Trusts vide Letter No. 3750 dated 01.02.2023.

1/B That this Application is also being filed seeking removal of encroachment in Khata No. 650 wherein the other local community has encroached upon 8 decimals of land for Idgah. However, as per the Khatian (Annexure-1), only 4 decimals belongs to said Idgah.

1/C That further, also, For issuance of writ of Mandamus commanding the respondent authority to provide proper protection to the life and limb of the petitioners from the encroaching parties who are threatening the petitioners not to take any step in the matter otherwise be ready to face consequences.

1/D That the petitioners further pray for issuance of any other appropriate writ/order/direction to which they are found entitled.”

3. It is submitted that the lands of Bramhasathan at village- Rajapur, Post- Dubahan, P.S.- Sakra, District- Muzaffarpur, Bihar measuring up to 3 Acres 36 decimals in Khata No. 256, Khesra No. 652, 649, 711 and 712 clearly shown to be the land belonging to Bramhasathan in Khatihan of Mauja- Rajapur, have been encroached upon by the persons of different community and they are also putting complete restriction on



religious practices of petitioners and other co-natives of the village performed at the said Bramhasthan. The encroached lands of Bramhasthan temple has been converted into Kabristan (Burial Ground) and boundary walls have been erected over the said land resulting in encroachment not only over the lands but also over the religious belief and practices of the community of the petitioners and other co-natives of the concerned village.

4. He also submits that for ventilating the grievance the petitioners have approached before the Bihar State Board of Religious Trust and the Superintendent, Bihar State Board of Religious Trust having considered the seriousness of the matter requested the District Magistrate and S.S.P., Muzaffarpur vide letter no. 3750 dated 01.02.2023 to inquire the matter at the earliest and to protect the encroached site by restraining the other parties to make construction of boundary walls over the land of Brahmasthan. However, despite the request made by the Superintendent, Bihar State Board of Religious Trust the same has not been acceded to by the District Magistrate and other authorities and till date no action has been taken.

5. He further submits that having been found no response at the hands of the higher authorities, the petitioners also brought this fact before the Circle Officer, Sakra who is the



competent authority to initiate an encroachment proceeding but despite the application is pending since 29.04.2023 (Annexure-7), neither the encroachment proceeding has been initiated nor any action has been taken against the encroachers. Having lost all the hopes, the petitioners have knocked the door of this Court by filling the present writ petition.

6. On the other hand, learned counsel for the State submits that as the request has already been made by Superintendent, Bihar State Board of Religious Trust, the authority will certainly enquire the allegation and take appropriate action.

7. Considering the nature of the grievance, this Court deems it proper to dispose of the writ petition with the direction to the District Magistrate, Muzaffarpur to personally look into the matter and direct the concerned Circle Officer, Sakra to inquire into the complaint made on behalf of the petitioners and if necessary initiate an encroachment proceeding.

8. It is needless to observe that before any corrective measures, notices must be issued to all the stake holders and the proceeding, if any, must come to its logical conclusion as early as possible preferably within a period of eight weeks from the date of receipt/production of copy of this order. It goes without



saying that if any unauthorized construction is found to be in process over the land in question, the authority concerned will restrain the same till the final decision is made.

9. The present writ petition stands disposed of.

(Harish Kumar, J)

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