

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17876 of 2022

1. Motiur Rahman Son of Late Abdul Majid Resident of Village- Basantpur, Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
2. Md. Sahud Alam @ Md. Sona Son of Late Raheemullah Resident of Village- Basantpur, Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
3. Ansarul Haque, Son of Late Md. Zaheer Resident of Village- Basantpur, Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
4. Md. Izhar, Son of Late Abdul Hameed Resident of Village- Naya Tola Basantpur, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
5. Abdul Samad @ Lal Babu, Son of Late Md. Serajuddin Resident of Village- Basantpur, Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The Chairman, Bihar State Sunni Waqf Board Haj Bhawan, Patna.
2. The Chief Executive Officer, Bihar State Sunni Waqf Board, Haj Bhawan, Patna.
3. The Minority Welfare Officer-cum- Nedar Officer, Wakf Muzaffarpur.
4. Md. Sami Ahmad, Son of Late Merajuddin President of the Managing Committee, Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
5. Md. Aftab Alam, Son of Md. Gunnu Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
6. Md. Shamshad, Son of Md. Saheed Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
7. Md. Jahangir Quraishi, Son of Ghulam Nabi Quraishi Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
8. Anwar Hussain, Son of Late Ahmad Hussain Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
9. Ataur Rahman, Son of Late Abdul Ghafoor Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
10. Md. Ghufraan Alam, Son of Md. Sadique Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
11. Md. Aftab Alam Ansari, Son of Late Md. Zainul Abedin Ansari Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
12. Md. Moinuddin Quraishi, Son of Late Salim Quraishi Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
13. Md. Shoib, Son of Late Abdul Jabbar, Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.
14. Md. Alamgir, Son of Abdul Rauf, Resident of Village- Basantpur Malikan, P.O.- Barkagaon, P.S.- Karja, District- Muzaffarpur.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Syed Firoz Raza, Adv.
For the Respondent/s : Md. Helal Ahmad, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 06-11-2023

Heard Mr. Syed Firoz Raza, learned counsel for the petitioner and Md. Helal Ahmad, learned counsel for the Bihar State Sunni Waqf Board.

2. The petitioners by filing the instant writ petition under Article 226 of the Constitution of India, challenging the notices issued under Section 54 of the Wakf Act, 1995 for declaring the petitioners as encroacher of the Wakf Estate No. 2776/2802, Basantpur, Barkagaon, Muzaffarpur, in Miscellaneous Case No. 39 of 2022, which is pending before the Wakf Tribunal.

3. A preliminary objection has been raised by the respondent/ Bihar State Sunni Waqf Board that the present writ petition is not maintainable as the petitioners have assailed the impugned notice instead of putting their appearance before the Bihar State Sunni Waqf Board.

4. On the other hand, while assailing the impugned notice, Mr. Raza, learned counsel for the petitioners, submits that the notice dated 10.10.2022 is a predetermined notice



declaring the petitioners as encroachers causing serious prejudice to the right and entitlement of the petitioners and thus the same is required to be adjudicated before this Court.

5. Considering the nature of the grievance and the disputed question of facts as apparently manifest from the materials available on record, apart from the alternative remedy available to the petitioners to assail the same before the Wakf Tribunal under Section 83(2) of the Wakf Act, 1995, this Court deems it fit and proper to dispose of the writ petition granting liberty to the petitioners to approach before the Wakf Tribunal preferably within a period of four weeks. Accordingly, the present writ petition stands disposed of.

6. Needless to observe that if such an application is filed before the Wakf Tribunal, the same shall be considered and disposed of by a reasoned and speaking order expeditiously after affording proper opportunity to all the stakeholders.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.11.2023.
Transmission Date	NA

