

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24921 of 2019

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1. Tasneem Iqbal Wife of Qazi Mohammad Iqbal Nasir, Resident of Ward No. 17, Village- Lakhminia, P.S.- Balia, Sub Division- Balia, District- Begusarai.
 2. Ehteshamuzzaman, son of Late Waliuz- Zaham, resident of Ward No. 17 at Lakhminia, P.S.- Balia, District- Begusarai.
 3. Kaji Taki Ahmad, son of Late Kazi Razi Ahmad, resident of Ward No. 17, Lakhminia, P.s.- Balia, Sub Division- Balia, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Begusarai, Collectorate, Begusarai- 851101.
2. The Sub Divisional Magistrate, Balia Sub Division, Balia, District- Begusarai.
3. The Chief Executive Officer, Bihar State Sunni Waqf Board, Haj Bhawan, Ali Imam Path, P.s. Sachivalaya, District and Town- Patna.
4. Chaudhary Nilam Abbas @ Nilu Chaudhary, son of Late Chaudhary Mohammad Mohsin, resident of village- lakhminia, P.O.- Lakhminia, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rashid Izhar, Advocate
For the Respondent/s	:	Mr.Raj Kishore Roy, GP-18
For Wakf Board	:	Mr. Helal Ahmad, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 31-07-2023 Heard Mr. Rashid Izhar, learned counsel for the petitioner and Mr. Helal Ahmad who represents the respondent no. 3, the Bihar State Sunni Waqf Board, Patna(henceforth for short 'the Wakf Board').

No counter affidavit is on record on behalf of the State.

The petitioner has challenged the order dated 19.10.2019 passed by the Sub Divisional Officer, Balia,



Begusarai (Annexure-7 to the writ petition) by which as per the petitioner without putting her on notice, an order was passed to vacate the land within 30 days in view of the information given by 'the Wakf Board'.

It is the contention of the learned counsel for the petitioner that the lady was never put on notice and only the complaint made by the respondent no.4, 'the Wakf Board' shoot off the letter which followed the order in question.

Learned counsel appearing on behalf of the 'the Wakf Board' on the other hand submits that if there is any illegality, the petitioner has the remedy to move in Appeal under section 52(4) of the Wakf Act, 1985 and instead she has chosen to invoke the writ jurisdiction.

Learned counsel for the petitioner submits that the lady will be moving before the Appellate Tribunal but she needs protection in view of the fact that no notice was ever issued to her.

This categorical statement made by the learned counsel for the petitioner on the basis of averment made in the writ petition (paras-17 to 19 of the writ petition) has not been controverted by 'the Wakf Board'.

In that view of the matter, there is force on the



submission made by the learned counsel for the petitioner.

Writ petition is disposed of with a direction to the petitioner to move before the Appellate Tribunal challenging the order in question within a period of four weeks from today.

If such petition is filed, the same shall be decided within next three months.

Till an order is passed by the Appellate Tribunal, the order dated 9.10.2019 (Annexure-7 to the petition) shall remain in abeyance and will merge with the final order passed by the Appellate Tribunal.

The writ petition stands disposed of.

(Rajiv Roy, J)

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