

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.602 of 2021

In
Civil Writ Jurisdiction Case No.23834 of 2019

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Tanga Majdoor Sangh a Society registered Under the Provision of Society Registration Act, having its Office at Tanga Stand, Meena Bazar, Bettiah through its General Secretary Daroga Prasad Chaudahry (Male), aged about 53 Years, Son of Ram Bihar Chaudhary, Resident of Ward No. 32, Piunibad, P.S.-Bettiah, District-West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Collector, West Champaran, Bettiah.
3. Nagar Parishad, Bettiah through its Executive Officer, Bettiah, P.S.- Bettiah, District-West Champaran.
4. Babloo Miya @ Md. Imteyaz @ Babloo, S/o Abdul Kadir, Resident of Mohalla-Kalibag, Mir Shikar Toli Chowk, Ward No. 12, Bettiah, P.S.- Bettiah (T), Kalibagh OP, District-West Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Ms. Priyanka Singh, Advocate
For the State	:	Mr. Yogendra Pd. Sinha, AAG-7
For the Respondent no.3	:	Mr. Priyadarshi Matrisharan, Advocate
For the Respondent no.4	:	Mr. Akhileshwar Kumar Srivastava, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-08-2024

The person representing the appellant before the learned Single Judge, in the writ petition, claimed that he is the General Secretary of *Tanga* Majdoor Sangh (hereinafter referred to as the Society for reason of it being registered under the provisions of the Societies Registration Act, 1860). It was asserted that the removal/demolishing of *Tanga* Stand located at



Meena bazar in the town of Bettiah, West Champaran would be interfering with the rights of the Society; existing for the last more than 135 years. It was also claimed that the Society has 200 *Tanga* owners as members, who were parking their *Tangas* in the *Tanga* Stand in the piece of land; morefully described in paragraph no. 3 of the impugned judgment. It was also admitted that a Title Suit no. 119 of 2014 was pending before a competent Court of civil jurisdiction at Bettiah instituted by the petitioner in respect of the same land.

2. The learned Single Judge noticed that an intervenor, who was impleaded, specifically challenged the authority of the person who filed the writ petition, styling himself as General Secretary of the Society, on the ground that he had been removed and an *ad hoc* committee was constituted, till election of the office bearers of the Society. The removal of the self-styled General Secretary was also on account of his illegal activities of constructing shops and taking security money to let out the same without any approval or authority from the Society. The additional respondent impleaded had also contended that the title suit was filed by two others, wherein an injunction petition was filed which has not been ordered. The additional respondent had also impleaded himself in the title suit



filed at the instance of the self-styled General Secretary; again contending that the plaintiffs in the suit have no authority to represent the Society.

3. The Executive Officer had also denied the contention raised by the petitioner-Society and specifically averred that the public transport as of now in Bettiah is serviced by 5000 auto-rickshaws and 3000 e-rickshaws running inside the town. There are only 10 to 15 *Tangas* in use and parked in the land which was needed for public lavatory.

4. The learned Single Judge doubted the *locus standi* of the petitioner and found that there is no *bona fide* dispute on title raised by the writ petitioner which would enable invocation of Article 226 of the Constitution of India. The writ petition stood rejected.

5. Sri. Yogesh Chandra Verma, learned Senior Counsel appeared for the appellant, Sri. Priyadarshi Matrisharan learned Counsel for the respondent no. 3, Sri. Yogendra Prasad Sinha, learned AAG-7 for respondent no. 1 and 2 and Sri. Akhileshwar Kumar Srivastava, learned Counsel for respondent no. 4.

6. Admittedly, there is a title suit filed and the plaintiffs have filed an injunction application against the



interference to their possession by the Nagar Parishad; but there is no order passed in the said injunction application in favour of the plaintiffs. The prayer made in the writ petition under Article 226 of the Constitution of India is similar to that made in the injunction application. An alternative remedy having been invoked there is no ground for invocation of Article 226 of the Constitution of India. Moreover, the contentions raised are of right over a land and possession for long, which cannot be decided in a writ petition. We cannot but notice that the documents produced do not evidence any existence of the *Tanga* Stand for the past 135 years as claimed by the writ-petitioner. There is also nothing produced to indicate uninterrupted possession for all these years; which again has to be proved by proper evidence led before the competent civil forum.

7. The learned Single Judge has also doubted the *locus standi* of the person representing the Society, especially since the contentions raised by the intervenor has not been refuted by the petitioner/appellant.

8. Obviously, there are disputes in the Society which again cannot be agitated in this petition under Article 226 of the Constitution of India, wherein the subject matter is the



claim of right and possession over a particular land; which also has not been shown to be belonging to the Society by any documentary evidence. We agree with the learned Single Judge that the *locus standi* of the person representing the Society is in dispute and in any event, there is no *bonafide* question on title raised or substantiated in the writ petition.

9. We find absolutely no reason to interfere with the impugned order of the learned Single Judge.

10. The appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

aditya/-

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