

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.171 of 2023

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Sharifa Kumari Wife of Subhash Paswan, R/o Village- Kakariya, P.O.- Kalpa,
P.S. and District- Jehanabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The Collector, Jehanabad, District- Jehanabad.
4. The Sub Divisional Officer, Jehanabad, District- Jehanabad.
5. The Circle Officer, Jehanabad, District- Jehanabad.
6. The Ram Janki Mandir (Idols of Ram Janki Thakurbari), Village- Kinari,
P.O.- Salarpur, P.S. and District- Jehanabad through its Secretary Shashi
Shekhar Saroj.
7. Shashi Shekhar Saroj, Son of Radha Ballam Rakesh, Resident of Village-
Kinari, P.S. and District- Jehanabad.
8. The Bihar State Board of Religious Trust, Vidyapati Marg, Patna- 800001
through its Secretary.
9. The Chairman, Bihar State Board of Religious Trust, Vidyapati Marg, Patna-
800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate Ms. Ritika Rani, Advocate
For the State	:	Mr. Sajid Salim Khan (Sc25)
For the Board	:	Mr. Ganpati Trivedi, Advocate Mr. Ravi Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

13 13-02-2024 Heard Mr. Dinu Kumar, learned counsel, along with

Ms. Ritika Rani, learned counsel appearing on behalf of the

petitioner: Mr. Sajid Salim Khan, learned SC 25 for the State

and Mr. Ganpati Trivedi, learned senior counsel along with Mr.

Ravi Ranjan, learned counsel for the Board.

2. Learned counsel appearing on behalf of petitioner



submits that during pendency of the writ petition in compliance of the order dated 15.01.2024 passed by this Court, the District Magistrate, Jehanabad has not furnished a report, however, the Sub- Divisional Officer, Jehanabad has informed the District Magistrate, Jehanabad that the shop which is in the house of the petitioner has been unsealed vide letter No.349 dated 08.04.2023 and a counter affidavit to that effect has also been filed on behalf of respondent nos.8 and 9 which is admitted by the State.

3. Learned counsel further informs this Court that just to harass the petitioner, the Board has *suo motu* initiated a proceeding under Section 43(D) of the Bihar Hindu Religious Trust Act, 1950 (hereinafter refereed to as “the Act”), which will only amount to cover up their illegal action and for giving the resultant effect to disturb the petitioner from his peaceful possession with respect to the shop belonging to the petitioner. Learned counsel further submitted that the petitioner had already filed objection before the Bihar Hindu Religious Trust Tribunal against the proceeding which has been initiated against him, however, the same was rejected on 11.07.2023. He next submits that the shop has been unsealed upon considering the report submitted by the Sub-Divisional Officer before the



District Magistrate, Jehanabad.

4. To justify the action of the Board, Mr. Ganpati Trivedi, learned senior counsel has referred to provision of Section 43 of the Act and he submitted that Board has jurisdiction to initiate an encroachment proceeding against anyone, if the Board finds that the said property belongs to a Hindu Trust and the petitioner must not restrain himself from appearing before the Tribunal in an encroachment proceeding.

5. Provision of Section 43 of the Act shall not come in a way, as there is specific direction of this Court to the District Magistrate to justify the action of the Board having jurisdiction to proceed to seal the shop of the petitioner and unseal thereafter.

6. The Circle officer has already informed vide letter No.309 dated 2.2.2024 that khata No.69, Khesra No.1630, total area 15 decimals was physically inspected by him and he has informed that petitioner (Sharifa Kumari) is in possession of the house and the shop. Similarity, the Sub-Divisional Officer, Jehanabad also vide letter no.349 dated 08.04.2023 has informed the District Magistrate that he has unsealed the shop which is in the house of the petitioner.

7. Considering the aforesaid information, the District



Magistrate must not linger the matter in any manner and file his report personally before the Board’s Tribunal on 15.02.2024 at 11:00 a.m. and clarify the possession of the land and the house, as to whether the petitioner is rightful owner of the shops and building. The Tribunal in such circumstances, must drop the proceeding initiated against the petitioner, if the report reveals the possession and occupancy right of the petitioner, as well as, the fact that the ancestor of the petitioner is the original land holder. The parties, however, have liberty to declare their title over the land in question, as refereed in above paragraphs, before a competent court having jurisdiction.

8. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

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