

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3401 of 2024

In
Civil Writ Jurisdiction Case No.98 of 1992

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Dr. Mrs. Shahida Hasan Wife of Azfar Hassan Presently Resident of Ramna Road, Near Sapna Apartment, Naya Tola, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, MInority Welfare, Government of Bihar, Patna.
2. Dr. Chandrasekhar Singh, the District Magistrate Patna.
3. Sri Rajeev Mishra, the Superintendent of Police, Patna.
4. Mr. Amir Subhani, the Principal Secretary, Minority Welfare Department, Govt. of Bihar.
5. The Chief Executive Officer, the Bihar State (Shia) Waqf Board, Abaden House, Frazer Road.
6. Syed Akabir Hussain Son of Late Shakir Hussain Resident of Hussain Khan Sarai, P.O.-Sambhal, P.S.-Sambhal, District-Muradabad (U.P.) at Present resident of 4/1322-BI, New S.S. nagar, Aligarh, Barha Khurd, District-Aligarh (U.P.).

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Pratap Singh, Advocate
For the State	:	Mr. Ajeet Kumar, GA 9
		Mr. Pankaj Kuamr Singh, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 08-10-2024 Respondent No. 5 – The Chief Executive Officer, The Bihar State (Shia) Waqf Board, Abaden House, Frazer Road is a statutory body and the petitioner is not aware who is representing or who is a panel counsel for respondent No. 5. Be that as it may, the present contempt petition is arising out of yet



another contempt petition *namely* MJC No. 1348 of 2007 decided on 14.02.2012 in which there is observation dated 17.07.2009 and 03.09.2009 in paragraph No. 17, which has been extracted. Paragraph No. 17 reads as under:

“17. Before proceeding further in the matter, it is relevant to notice an order passed by this Court in the first contempt petition on 17-7-2009 and 3-9-2009. Both the orders, for the sake of convenience are reproduced herein below -

17-07-2009 “Learned counsel for the parties are present. In view of the internecine quarrel between the parties representing divergent and seemingly irreconcilable interests, it is difficult to proceed unless the properties are declared Custodia Legis during the pendency of the proceedings. In that view of the matter, the entire premises know as Rizwan Building including Pucca constructions and open lands are hereby declared Custodia Legis and shall be in the possession of the District Magistrate, Patna, until further orders of this Court. It will be open to him to obtain directions from this Court whenever he feels necessary to do so.

As jointly prayed for by learned counsel for the parties, put up on 24.8.2009, at the top of the list side by side with M.J.C. No. 1162 of 2007, with a view to its final disposal. The time in the meanwhile may be utilised by the parties for completion of pleadings.

Let a copy of this order be handed over



to Mr. Roy Shivaji Nath, learned Additional Advocate General No. 4, today itself”

03-09-2009 “Heard in part.

Learned counsel for the parties are present. Mr. Roy Shivaji Nath, learned Additional Advocate General No. 4, appears and places an affidavit on behalf of the District Magistrate, Patna. He further submits that acquisition of the land/property in questions as per the provisions of the Land Acquisition Act is under active consideration of the State Government. The District Magistrate, Patna shall ensure that nobody enters the vacant portions of the land, even though surrounded by boundary wall, and no construction takes placed within the premises.

Let a copy of this order be handed over to learned Additional Advocate General No. 4.

As prayed, put up on 8.10.2007.”

2. Reading of the order dated 14.02.2012 read with extract of the order dated 17.07.2009 and 03.09.2009, there was no cause of action to file present contempt petition in the year 2024. Scope of contempt petition is limited to the extent whether the contemnor has committed contempt insofar as violating the orders of this Court or not? Further, whether the contempt petition is in compliance to Section 20 of the contempt of Courts Act, 1971 read with Article 215 of the Constitution of India or not?



3. In the Co-ordinate Bench decision in the case of ***Dr. Rajesh Kumar Sinha and Ors. vs. The Union of India and Ors.*** bearing **MJC No. 1840 of 2023** in **CWJC No. 13888 of 2016**, this Court has taken note of the aforementioned provisions and proceeded to dismiss on the ground of limitation. The Hon’ble Supreme Court in the case of ***S. Tirupathi Rao vs. M. Lingamaiah and Ors.*** reported in **2024 SCC OnLine SC 1764** has taken similar view to the extent that belated contempt of Court petitions are not entertainable. In view of these facts and circumstances, present contempt petition stands dismissed with cost of Rs. 5,000/- (Rupees Five Thousand). Cost shall be remitted in the Patna High Court Legal Service Committee within a period of four weeks from today.

4. Dismissal of the present contempt petition would not be a hurdle for the petitioner to invoke writ jurisdiction or any other appropriate remedy, in accordance with law.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

GAURAV S./-

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