

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16931 of 2023

Sanjiv Kumar Chaudhary, Son of Shatrddhan Chaudhary, resident of Village-
Sakarauli Buchaili Ward No. 5, P.S. - Jandaha, District - Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Additional Chief Secretary, Department of Land and Revenue, Bihar, Patna.
4. The Principal Secretary, Art, Culture and Youth Department, Bihar, Patna.
5. The Principal Secretary, Panchayat Raj Department, Bihar, Patna.
6. The Additional Chief Secretary, Department of Education, Bihar, Patna.
7. The District Magistrate, Vaishali at Hajipur.
8. The Sub-Divisional Magistrate Mahua, District- Vaishali.
9. The Circle Officer, Jandaha Circle, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar No.1, Advocate Mr. Alexander Ashok, Advocate
For the Respondent/s	:	Mr. P.K. Shahi (AG)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-02-2024

The petitioner styles himself to be a public spirited person who has filed the above writ petition to save a play ground in Mahisaur Panchayat, Jandaha Block, District- Vaishali bearing Khata No. 893, Plot No. 3504, area 2 acre 17 decimals under Revenue P.S. No. 632. It is contended that the said plot was being used as a play ground, called the Ganga Sagar Play



Ground by the local children and youth. Some public constructions have come up in the property but now many others are coming up which deprives the children and the youth of the locality of their only play ground. The petitioner asserts that a play ground is necessary for the healthy development of children and construction of public buildings can be in other properties available within the Panchayat or outside it.

2. A counter affidavit has been filed by the Circle Officer specifically pointing out that Plot No. 3504 has a total extent of 2 acre 17 decimals. It is stated in Paragraph 6 that many portions of the said property have been transferred to public authorities, the police, the Health Department, a primary school, the Panchayat and Anganwadi Kendra. What remains is only 85 decimals, which is not sufficient enough to be treated as a play ground or in which such facilities for the healthy development of children can be brought in.

3. A rejoinder has been filed by the petitioner pointing out that the buildings existing as of now are on the south west corner of the land and this does not in any manner cause hindrance to the peaceful use of the balance land, remaining vacant as a play ground. Representations, it is asserted, have been made by the Mukhiya and the local residents.



4. We cannot but observe that there should be a balance struck in providing for a play ground and utilizing land for public buildings. When public buildings come up in a locality, it helps better administration of the area and also provides many facilities to the local residents. We are not for a moment discounting the health benefits of a play ground in the area. However, as we noticed hereinabove, there should be a balance struck, which falls within the exclusive domain of the Government and its authorities.

5. The need for a public facility/utility and construction of a building for its functioning and the requirement of a play ground has to be put in the balance of priorities for deciding on which should prevail, in the existing facts and circumstances. A play ground cannot be brought into a place by orders issued by this Court nor can we restrict the construction of public buildings on the ground that the land, which had been lying vacant, was being used as a play ground.

6. We find absolutely no reason to pass any orders in the writ petition. However, the prayer of the villagers for a play ground could be looked into by the district administration, and if possible, a plot could be identified. We are, however, clearly of the view that there could be no orders passed restricting



construction on Government land based on the specious plea of the villagers that the land was being used as a play ground. In fact, the Circle Officer has specifically stated in the counter affidavit that there was no regular use and at times the vacant land had been used by the local children and youth.

7. We find absolutely no reason to pass any positive orders and we also make it clear that our observation to consider the feasibility of a play ground in the locality is not a positive direction and again has to concede to the policy of the Government.

8. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

P.K.P./-

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CAV DATE	
Uploading Date	27.02.2024
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