

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.256 of 2022

In

Civil Writ Jurisdiction Case No.279 of 2022

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1. Maheshwar Prasad Narayan Singh Son of Late Nagendra Prasad Narayan Singh Resident of Madhuban Khothi, Aamgola Road, Musahri, Muzaffarpur, District-Muzaffarpur, Bihar. Permanent Resident of Madhuban Estate, Village Madhuban, Post-Gulwara Madhuban, District-East Champaran, Bihar,
 2. Dinesh Prasad Narayan Singh Son of Late Nagendra Prasad Singh Resident of Madhuban Khothi, Aamgola Road, Musahri, Muzaffarpur, District-Muzaffarpur, Bihar. Permanent Resident of Madhuban Estate, Village Madhuban, Post-Gulwara Madhuban, District-East Champaran, Bihar,

... .. Appellants

Versus

1. The State of Bihar
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Principal Secretary, Labour Resources Department, Government of Bihar, Patna.
4. The Principal Secretary, Department of Education, Government of Bihar, Patna.
5. The Director, Labour Resources Department, Government of Bihar, Patna.
6. The Director, Secondary Education, New Secretariat, Patna.
7. The District Magistrate-Cum-Collector, Motihari, East Champaran.
8. The Executive Engineer, Building Division, Motihari, East Champaran.
9. The District Education Officer, Motihari, East Champaran.
10. The Principal, Shri Vishnu Pragash Uchha Vidyalaya, Madhuban.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Sriram Krishna, Advocate Mr. Abhijit Gautam, Advocate Mr. Amarjeet, Advocate Mr. Prabhat Kumar Singh, Advocate Mr. Shashank Shekhar Kunwar, Advocate
For the State	:	Mr. Raghavanand, GA-11 Mr. Sanjay Kumar, AC to Ex GA-13

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 30-07-2025

The present *intra* court appeal is directed against the order dated 24.03.2022 passed by the learned Single Judge in C.W.J.C. No. 279 of 2022, whereby the said writ petition filed by the appellants-writ petitioners was dismissed.

2. As per the facts on record, the appellants' case is that in the year 1971, appellants' grandfather had started "*Shri Vishnu Pragash Uchha Vidyalaya*" in a makeshift building provided by the appellants' family. Subsequently, it was felt that the school should have its own permanent land and building. On 19.05.1972 (which is incorrectly mentioned as 13.03.1973), appellants' mother by virtue of registered Gift Deed bearing registration No. 10663, donated land in question measuring 5 *bighas* and 16 *dhurs* to the school namely "*Shri Vishnu Pragash Uchha Vidyalaya*" which was already in existence. The said gift deed was executed by mother of the appellant in favour of the Hon'ble Governor of Bihar with the condition that in case said school becomes non-functional, the land will be reverted to donor. The appellant-writ petitioner is aggrieved by the action of the State respondent that they have constructed an ITI institution over the land donated by his mother as described above. The appellants approached the Writ



Court seeking correction to shift school building and establish it on the land donated by their mother or to re-transfer the land in question to the appellants' family which was donated by their mother and, in alternative, to name the ITI institution constructed over the donated land as "*Shri Vishnu Pragash Narain Singh*".

3. The learned Writ Court, considering the submissions of the parties, dismissed the writ petition by the order under challenge dated 24.03.2022 in following terms:-

“Considering that the petitioners by way of writ petition prays for implementation of the conditions of gift executed by his mother Late Srimati Raj Dulari Devi. Learned counsel submits that the land was specifically gifted out for establishment of Shri Vishnu Pragash Uchha Vidyalaya, Madhuban, however, the respondents have violated the conditions of gift and are proceeding to make construction of an Industrial Training Institute.

Question regarding the execution of gift/condition of gift as well as implementation are pure question of fact which need to be examined by the competent Civil Court alone and would not fall for adjudication under Article 226 of the Constitution of India.

Matter being solely factual, writ petition is dismissed.”

4. The appellants, being aggrieved by the same order, has preferred this Letters Patent Appeal on the ground that learned Single Judge failed to appreciate the alternative prayer to name the institution constructed on donated land by the appellants' mother as "*Shri Vishnu Pragash Narain Singh*". The learned counsel for the appellants submits that the learned Single Judge ought to have



considered the alternative prayer but he failed to consider the same and treated the matter as relating to implementation of conditions of gift or execution of gift and further observed that the same shall be adjudicated by competent Civil Court and such dispute is not amenable under Article 226 of Constitution of India.

5. *Per contra*, learned counsel for the State submitted that so far the alternative prayer to name the ITI building constructed over the land of appellants is concerned, it was not a condition available in gift deed. The land was donated to the institution namely, “*Shri Vishnu Pragash Uchh Vidyalaya*” by gift deed executed in favour of Governor, Bihar. By virtue of acceptance of the gift the transaction is over, the said gift is a duly registered document. The appellants in the capacity of legal representative have no such residuary right over the gifted property which can be made enforceable under law except for right of revocation of the gift deed. Such right has been reserved in the deed itself for which the only forum is the competent Civil Court. It is also submitted that unless a registered deed is cancelled under the provision of Specific Relief Act by a Court of competent jurisdiction, the property cannot be reverted back to the legal representative of the donor.



6. We have gone through the materials available on record and considered the rival submissions of the parties. The only question that arises for consideration by this Court is whether the order passed by the learned Single judge requires any interference.

7. In view of the facts of this case, the learned Single Judge has rightly observed that the appellants should approach a competent civil court for implementation/ execution of the terms and conditions of the gift deed. So far the alternative prayer made in writ petition is concerned, the same is inconsistent with the recitals of the gift deed. The prayer of appellants to name a different institution i.e. ITI, Madhuban as “*Shri Vishnu Pragash Narain Singh*” cannot be allowed by this Court because it is a policy matter which is exclusively under the domain of the executive.

8. However, we have also noticed the content of gift deed (Annexure-1 to writ petition) which nowhere mentions that, if in future any building is constructed over the land, the same shall be named as “*Shri Vishnu Pragash Narain Singh*”.

9. In view of the discussions made above, we do not find any valid reason to interfere with the order of the learned Single



Judge. However, appellants are at liberty to raise their grievance before appropriate forum/ Court, if they are so advised.

10. The present appeal is, hereby, dismissed.

11. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Ramesh Chand Malviya, J)

Sachin/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	04.08.2025
Transmission Date	N.A.

