

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13240 of 2018

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Sheikh Ajmat Ali Son of Late Sheikh Shaukat Ali, Resident of Village-
Shahgora, P.S.- Bhawanipur, District- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Purnea.
3. The Superintendent of Police, Purnea.
4. The Sub-Divisional Officer, Dhamdaha, Purnea.
5. The Deputy Superintendent of Police, Dhamdaha, Purnea.
6. The Circle Officer, Bhawanipur, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Anand, Advocate
For the Respondent/s : Mr. N.H.Khan, SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 13-10-2025 Heard Mr. Amit Kumar Anand, learned counsel for

the petitioner and learned counsel representing the State.

2. The present petition has been preferred for the
grant of following relief(s):

*“for issuance of a writ in the nature of
mandamus commanding and directing the
respondent authorities to refrain from allowing
holding village procession over the land
belonging to Kabristan, situated in village-
Shahgora, P.S.- Dhamdaha Pragana,
Bhawanipur, Touzi No. 1/1309, P.S. No. 215/2
herein Khata No. 148, Khesara No. 143, Area
1.12 Acres and recorded in Khatiyani as "Gair
Mazarwa Sarwa Sadharan PURANI PARTI" and
is situated in Mouza- Shahgora, P.S.-
Dhamdaha, pargana Bhawanipur, Touzi no.-*



1/1309, Thana no. 215/2 bearing khata no.148, khesra no.- 141 Area 0.08 decimals which is recorded in khatiyani as "GAIR MAZARWASARV SADHARAN PURANI PARTI" "Masjid ki Jagah Dikhati hai", though license is issued by the district authorities to hold village, Hat/Mela and allow procession by mentioning the specific area and the route of procession, which is four kilometer away from the subject land in question but District authorities illegally allow Hat/Mela and procession at the subject land and further for issuance of any other appropriate writ or writs order or directions to which the petitioner may found legally entitled to."

3. The matter relates to a piece of land (Khata No. 148, Khesra No. 143, Area 1.12 Acres recorded in Khatiya as "Gair Mazarwa Sarwa Sadharann Purani Parti") situated in Mauza-Shahgora, P.S. Dhamdaha, Tauzi No. 1/1309, Thana No. 215/2 as also Khata No. 148, Khesra No. 141, Area 0.08 decimal recorded as "Gair Mazarwa Sarv Sadharan Purani Parti" "Masjid Ki Jagah Dikhti Hai".

4. The claim of the petitioner is that since the land was earlier used for Kabristan/Masjid, the State cannot allow hat/mela as also processions on the said land. Further, it is being used to bury the dead body.



5. An unrebutted counter affidavit has come on behalf of the respondent no. 2 to 6 duly signed by the Circle Officer, Bhawanipur, Purnea and paragraph nos. 9 and 11 to 15, 18, 19 and 23 as also 27 read as follows:

“9. That the statement made in Paragraph No.4 of the writ petition is false as none of the land under question has been used as Masjid or as Kabristan and that land is used by people of all section of the society for organizing Mela/Hat as well as other activities.

11. That the statement made in Paragraph No. 6 of the petition is true. But at the same time it is pertinent to mention that this land is in exclusive possession of the state of Bihar.

12. That the statement made in Paragraph No.7 of the petition is false and frivolous. Even if somebody has buried any dead body over that land that is illegal and that does not give him any right to use that land for the same purpose.

13. That the statement made in Para



No.8 of the petition is vague as well as false and frivolous. The part of land under question is in exclusive possession of the state of Bihar and no title has ever been created in favour of any person including the petitioner by way adverse possession.

14. That the statement made in Para No.9 of the petition is false and frivolous as the piece of land under question is not a kabristan rather the state of Bihar has exclusive right, title, interest and possession over the same.

15. That the statement made in Para No. 10 of the petition itself transpires that the land is used for holding Hat/Mela and as a way for sarva sadharan (common men). But the petitioner has no respect for survey entries nor for the people of the rather village the petitioner illegally and improperly trying change the nature of that land.

18. That the statement made in Para No. 13 of the petition is false so far as it says that the District Authorities are aware about the



kabristan. On the contrary, the District Authorities are well aware of the fact that the land is Gair Mazarua Sarva Sadharan land which has been used by common people of the locality and has been allowing people of the locality to hold Mela/Hat and allow procession over the land.

19. That with regard to the statement made in Para No. 14 of the petition it is submitted that the petitioner is wrongly and illegally claiming the land as kabristan whereas the land is Gair Mazaruaa Sarva Sadharan and accordingly that is used for holding Mela/Hat, procession as well as other activities. Moreover that does not affect the dignity of any dead soul as claimed by the, petitioner. Fact is that the petitioner only with ulterior and malafide purposes making illegal and false pleas.

23. That with regard to the statement made in Para No. 18 of the petition it is submitted that the petitioner is wrongly and illegally mentioning the land as Kabristan land



whereas the land is Gair Mazarua Sarva Sadharan which has been used for holding Mela/Hat, possession and other activities.

27. That the statement made in Para No.22 of the petition is false as the land has been used for holding Mela/Hat, procession and other activities but the petitioner and his family is illegally and forcefully trying to take possession of that land by getting that declared as kabristan.”

6. As recorded above, this counter affidavit was filed after service of copy to the petitioner on 22.03.2024 and there is no rebuttal. From the aforesaid facts it is clear that:

(i) in the revisional survey record, it is in the name of ‘Gair Mazarwa Sarv Sadharan Purani Parti’ land;

(ii) it is being used by all sections of the society for organizing mela/hat and also other activities which in fact benefits all the communities and there is/are social harmony in the place;

(iii) the petitioner individually and without



any authority from the locals and/or showing any credentials that he heads any community/organization on his personal capacity has approached the Court only to disturb the limited period for which the mela is held at that place and allows locals to do business activity;

(iv) the counter affidavit clearly shows that the land in question is in exclusive position of the State of Bihar and no title whatsoever was created in favour of any person much less the petitioner.

(v) these have not been rebutted by filing any reply.

6. In that background, the Court is of the opinion that the petitioner is not entitled to any relief. It is a frivolous petition. However, this Court refrains from imposing cost.

7. The writ petition is dismissed.

(Rajiv Roy, J)

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