

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.93 of 2014

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Rajendra Prasad Yadav son of late Ram Rup Prasad, proprietor of M/s Saptahik Lok Patra, Ashoka Market near Patna Rly. Station, resident of near Parsa Railway Station, P.O.-Kurthaul, Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Patna
3. The Sub-Divisional Officer, Sadar, Patna
4. The Patna Regional Development Authority through its Vice-Chairman, Maurya Lok Complex, Patna-1
5. The Vice-Chairman, Patna Regional Development Authority, Maurya Lok Complex, Patna
6. The Patna Municipal Corporation through its Administrator, near G.P.O., Patna-1
7. The Administrator, Patna Municipal Corporation, near G.P.O. Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ram Nandan Prasad, Advocate

For the Patna Municipal Corporation: Mr. Ranjeet Kumar Pandey, Adv.

For the State : Mr. Siddharth Shankar Pandey, A.C. to G.P.-24

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

10 04-08-2015

The petitioner claims to be the proprietor of Saptahik Lok Patra Press and is stated to have been allotted a shop by the erstwhile Patna Improvement Trust.

It is the case of the petitioner that an area of 1740 sq. feet was allotted to the press. Upon initiation of proceedings by the erstwhile Patna Regional Development Authority who succeeded the Patna Improvement Trust for removal of shops on grounds of encroachment that the petitioner along with some others filed CWJC No. 9747 of 1995 which was dismissed vide



judgment and order dated 19.12.1997. Although an intra court appeal bearing L.P.A. No. 135 of 1998 was preferred by the aggrieved writ petitioners but the petitioner did not join others. The letters patent appeal was allowed in favour of the shop keepers. The Patna Municipal Corporation preferred Special Leave Petition before the Supreme Court which was dismissed and thus the Municipal Corporation who in the meanwhile had succeeded the Patna Regional Development Authority under the Bihar Municipal Act, 2007 replacing the Bihar Regional Development Authority Act, 1981 became bound to afford the relief granted to the allottees in terms of the judgment and order of the Division Bench in L.P.A. No. 135 of 1998. Although the petitioner did not join the others in the letters patent appeal but it is the submission of learned counsel for the petitioner that the judgment of the Division Bench would govern the case of all shop keepers and since the name of the petitioner does appear at serial no. 19 of the judgment of the Division Bench, hence the relief granted to the other shop keepers should also be granted to the petitioner.

Mr. Ranjeet Kumar Pandey opposing the prayer had submitted that the petitioner has woken up from deep slumber for he neither joined the letters patent appeal nor contested the authorities before the Supreme Court and after five years of the disposal of



the Special Leave Petition by the Supreme Court that the present writ petition has been preferred which is fit to be dismissed on grounds of gross laches and delay. He submits that even otherwise there is nothing on record of the proceedings to support the claim of the petitioner and in support of his submission Mr. Pandey has taken the Court through the counter affidavit filed on behalf of the Corporation.

I have heard learned counsel for the parties and I have perused the materials on record. Although there is no dispute that the petitioner has approached this Court after a long delay but the notice of this Court has also been drawn to an order passed in CWJC No. 515 of 2013 disposed of on 30.6.2014 where similar issues had come up for consideration before this Court.

Mr. Pandey, learned counsel appearing on behalf of the Corporation has tried to distinguish the matter by submitting that the Municipal Corporation went unrepresented in the said batch of cases and which is not the position herein. He submits that the claim of the petitioner even on merit is not sustainable. Perusal of the order passed in CWJC No. 515 of 2013 and analogous cases which has been produced by counsel for the parties reflects that this Court without expressing any opinion on the merits of the case had disposed of the writ petition with direction to the

Commissioner, Patna Municipal Corporation to consider the claim of the petitioner and dispose of the same within three months. Mr. Pandey, learned counsel for the Corporation is not in a position to inform this Court whether the order passed by this Court has been appealed against by the Corporation and / or whether the cases of those writ petitioners has been disposed of.

In the circumstances, it would be but appropriate to dispose of the writ petition in the light of the directions issued in CWJC No. 515 of 2013 and analogous cases requiring the Commissioner, Patna Municipal Corporation to consider the claim of the present petitioner also in the light of the observations made herein and dispose of the same within three months of receipt / production of a copy of this order.

I would make it very clear that I have expressed absolutely no opinion as to the merits of the claim advanced by the petitioner.

(Jyoti Saran, J)

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