

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8138 of 2014

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Abdul Mannan Ansari, son of Late Nasimuddin Ansari, resident of Flat No. B/24 Arifnagar, Gewal Bigha, Gaya P.S. Rampur, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar, Patna through Principal Secretary, Urban Development Department, Bihar, Patna
2. The Municipal Commissioner, Gaya Municipal Corporation, Gaya

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sajal Kumar Sinha, Advocate

For the Respondent/s : Mr. Anshul, SC-32

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 09-09-2015 Heard Mr. Sajal Kumar Sinha, learned counsel for the petitioner, Mr. Rabindra Kumar Priyadarshi appearing for the Gaya Municipal Corporation and counsel for the State.

The grievance of the petitioner is that although the legal formalities for execution of sale deed in between the petitioner and the erstwhile Gaya Improvement Trust which was succeeded by the Gaya Regional Development Authority and thereafter by the Gaya Municipal Corporation under the Bihar Municipal Act, 2007 (hereinafter referred to as the 'Act') stands completed in respect of Quarter No. B-18 and B-24 at Arif Nagar, Gewal Bigha in the District of Gaya but yet the formal sale deed has not been executed by the Corporation.



It is the case of the petitioner that his mother Mumtaj Jehan as well as his father Nasimuddin Ansari both entered into a sale-cum-mortgage agreement with the erstwhile Gaya Improvement Trust in respect of quarter no. B-18 and B-24 respectively situated in Mohalla-Arif Nagar in the District of Gaya at the price of Rs. 9,000/- each of which Rs. 1800/- each had to be paid in advance and the balance 7200/- in monthly installment. A copy of the agreement is placed at Annexure-1 & 2 respectively to the writ petition. It is further the case of the petitioner that whereas the mother of the petitioner expired in the year 1993, the father also left for heavenly abode in the year 1996 and although the parents initially and thereafter the petitioner have been pursuing the respondent authorities for executing a formal registered sale deed but to no effect and hence this writ petition.

Mr. Sinha, learned counsel appearing for the petitioner relying upon the agreement placed at Annexure-1 and 2 executed in between the mother as well as the father of the petitioner and the Chairman, Gaya Improvement Trust, on the other hand, submits that it is pursuant to the said sale-cum-mortgage deed that the parents were making payment of the installments and pursuant thereto, the letter of allotment was also issued respectively which are placed at Annexure-2 series and is in



respect of his father. He submits that there is no dispute on facts and consequent upon the allotment that initially the parents and presently the petitioner is in occupation of the houses. It is stated that vide order issued on 04.9.1972 and 01.8.1973 the petitioner's father was directed to take possession of the houses after execution of the sale-cum-agreement deed or a sale deed, as the case may be, failing which it would be presumed that he did not require the house. It is stated that since thereafter parents have been deposited the installments, copies of which are placed at Annexure-3 series while making request for execution of the sale deed but to no effect. He further with reference to Annexure-7 submits that the municipal taxes had been regularly deposited by the petitioner and that on 10.6.2013 although the present Gaya Municipal Corporation has realized money for registry of the quarters present at Annexure-9 but yet the formal sale deeds have not been executed.

According to Mr. Sinha the entire consideration amount stands paid to the respondent authorities in the Gaya Improvement Trust followed by the Regional Development Authority and presently the Gaya Municipal Corporation in respect of the two houses in questions and it is now the obligation / duty on the part of the respondent corporation in terms of Clause-10 of the

agreement to execute a sale deed.

Mr. Rabindra Kumar Priyadarshi with reference to Annexure-A to the counter affidavit although proceeds to submit that the allotment has been cancelled but in my opinion the letter present at Annexure-A to the counter affidavit dated 30.7.1997 does not reflect any such order. The pleadings on record transpires that following the agreement in 1974 and the issuance of allotment order thereafter, the petitioner along with his parents are in occupation of the houses and claims to continue as such. The payment of the holding tax is also reflected from the documents.

In the circumstances discussed and in view of the covenant present at Clause-10 of the agreement to sale which puts an obligation on the vendor which at present would be the Gaya Municipal Corporation, to execute a sale deed, in my opinion, the writ petition can be disposed of with a direction to the Municipal Commissioner, Gaya Municipal Corporation to consider the grievance of the petitioner in the backdrop of the circumstances set forth herein as well as the documents so relied upon by the petitioner and dispose of the same by a speaking order and in case the petitioner has made their entire payment of the sale / mortgage amount in terms of the agreement present at Annexure-1 & 2, the

Commissioner shall proceed to take appropriate steps for execution of the respective sale deed. However, in case there are any dispute subsisting the same shall be disposed of by a speaking order.

Considering that the matter is very old, an expeditious disposal by the Commissioner within six months from the date of receipt / production of a copy of this order would be appreciated.

(Jyoti Saran, J)

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