

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3967 of 2016

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1. Arun Kumar son of Late Harbansh Lal Grover resident of 'Grover House',
Boring Road, P.S. Shri Krishnapuri, Patna- 800001.

.... Petitioner/s

Versus

1. The State of Bihar, through Secretary Urban Development Department Bihar, Patna.
2. The Commissioner, Patna Municipal Corporation,
3. The Additional Commissioner, Patna Municipal Corporation both situated at 'C'-Block, 2nd Floor, 'Maurya Lok', Patna- 800001.
4. The Executive Officer, New Capital Circle, Patna Municipal Corporation, Patna 800015
5. Gyandeo Sharma son of Late Sukhdeo Sharma resident of 'Naintara Sadan', Boring Road, P.S. Shri Krishnapuri, Patna- 800001.
6. Sushma Sharma wife of Kirtee Kapoor presently residing at 500, Berkeley Avenue, Menlo Park, California, Postal Code- 94025, United States of America (U.S.A.).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Sr. Adv.
Mr. Arvind Kumar, Adv.
For the Respondent-State: Mr. Sudhanshu Shekhar, A.C. to GP-31
For the P.M.C. : Mr. Sanjay Prakash Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 09-03-2016

Heard Mr. Y.V. Giri, learned Senior Counsel for the petitioner,
learned counsel for the State and learned counsel for the Municipal
Corporation.

The petitioner is aggrieved by the order dated 15.4.2010 passed
by the Executive Officer, Patna Municipal Corporation in Municipal
Case No.760 of 2008-09 together with the order dated 29.1.2014

passed by the Additional Commissioner, Patna Municipal Corporation in Mutation Appeal No. 10 of 2010 impugned at Annexure-19 and 20 to the writ petition.

The dispute involves the petitioner and the private respondent i.e. the respondent Nos.5 and 6 herein and relates to a house situated at Circle No.249 Holding No.603/306/116, Ward No.6 Boring Road in the town and district of Patna.

The issue involved in the contest is whether the petitioner is entitled to a mutation in respect of the property in question. Although exhaustive arguments have been made by Mr. Giri with reference to a number of orders enclosed herein but in my opinion, this Court would not be required to go into the intricate details of the matter for the orders impugned herein are nothing but a reiteration of the orders passed by the statutory authorities under the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act') on a similar application filed by the petitioner raising the contest with private respondents. The result of such contest is placed at Annexure-6 which is an order of mutation in favour of the petitioner only to be reversed by the appellate order present at Annexure-8. The reasons are plain and simple for upon consideration of the nature of dispute involved that the appellate authority while keeping the issue open has merely suspended order of grant of mutation in favour of the petitioner and

kept it in abeyance until the dispute is resolved by a court of competent civil jurisdiction.

Another interesting feature of the contest is that though petitioner did choose to question the order of the appellate authority by filing a writ petition giving rise to C.W.J.C.No.11793 of 2000 but the writ petition was dismissed as withdrawn on a permission so sought by the petitioner to avail of any other remedy available in law. It is undisputed that since after the withdrawal of the said writ petition, the petitioner has not taken recourse to any other remedy for resolving the dispute. Interestingly after more than a decade that the petitioner has chosen to file a second mutation application and the Executive Officer by the impugned order dated 15.4.2010 placed at Annexure-19 while taking note of the earlier order passed on the contest enclosed at Annexure-6 as well as the appellate order present at Annexure-8, has dismissed his application. The petitioner being aggrieved preferred a statutory appeal bearing Appeal Case No. 10 of 2010 and the appellate authority taking notice of the earlier order passed by him requiring the writ petitioner to get the dispute resolved by a court of competent civil jurisdiction and which opinion was confirmed when the petitioner chose to withdraw his writ petition to avail of such remedy but he did not choose to do so rather has filed the second application for the same purpose, rightly dismissed the

appeal affirming the opinion expressed by the Executive Officer by the order impugned dated 29.1.2014 placed at Annexure-20.

A laboured attempt was made by Mr. Giri to provide a cause of action to the petitioner by referring to some kind of F.I.R. instituted by the petitioner as well as to a writ petition filed by one Anupama Sharma claiming possession over the house while complaining dispossession at the hands of the writ petitioner. The said writ petition was dismissed with liberty to the said petitioner to take recourse of the remedy as available in law and which order stands confirmed by the Supreme Court but in my opinion these developments are irrelevant for the purpose of adjudication on the orders passed by the statutory authorities under 'the Act' impugned herein. In my considered opinion the issues raised herein have attained finality way back in the year 2000, vide orders placed at Annexure 6 and 8 only to be reiterated by the orders impugned at Annexures 19 and 20. The so called developments canvassed by Mr. Giri by relying upon the F.I.R. and the writ petition preferred by Ms. Anupama Sharma gives no cause of action to the petitioner who admittedly has not taken recourse to any other remedy the liberty for which was granted by the appellate order present at Annexure-8 as well as by this Court vide order present at Annexure-10 way back on 23.11.2000 when the writ petition filed by the petitioner to question the earlier identical orders

was dismissed as withdrawn on permission sought by the petitioner to avail of other remedy.

No case for indulgence is made out and for the reasons aforementioned, the writ petition is dismissed.

(Jyoti Saran, J)

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