

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4954 of 2016

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1. Smt. Usha Kishore W/o Sri Om Prakash Kishore Resident of M2-14, S.K. Puri,
P.S.- S.K. Puri, District- Patna.

.... Petitioner/s

Versus

1. Patna Municipal Corporation, through Municipal Commissioner, Maurya Lok,
Patna.
2. Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
3. Estate Officer, Patna Municipal Corporation, Maurya Lok, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Keshav Srivastava, Sr. Adv.
Mr. Shivjee Singh, Adv.
For the Respondent/s : Mr. Sanjay Prakash Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 02-05-2016

Heard Mr. Keshav Srivastava, learned Senior Counsel for the
petitioner and Mr. Sanjay Prakash Verma, learned counsel for the
Patna Municipal Corporation and its authorities.

The writ petition was filed by the daughter-in-law of the
original allottee late Raghubir Sharan Sinha for issuance of
appropriate writ/orders/directions in the nature of mandamus
commanding the authorities of the Patna Municipal Corporation to
execute a lease deed in respect of House No. M2/14 Mohalla Shri
Krishanpuri in the town and district of Patna by following the
provisions of the Patna Improvement Trust (Disposal of Land) Rules,
1957 (hereinafter referred to the 'Land Disposal Rules'). It is not in



dispute rather is an admitted position that the house in question was allotted to late Raghubir Sharan Sinha on 31.3.1962 vide allotment order present at Annexure-1. It is stated that the original allottee expired while making efforts for execution of the lease deed and the onus passed over to his widow Smt. Sushila Sinha who carried out the exercise until 6.5.2015 when she also expired and thereafter the daughter-in-law of the original allottee took up the matter and finding no response, is before this Court.

A counter affidavit has been filed on behalf of the Corporation in which it is stated that the allottees were found violating the Land Disposal Rules as well as the terms and conditions of allotment leading to institution of Vigilance Case No. 115A of 2002 and which is pending. It is the stand of the Corporation that should the allottees be held guilty of violation of the terms and conditions of allotment, the lease deed would stand terminated and the Corporation who has stepped into shoes to the Patna Improvement Trust and its successor the Patna Regional Development Authority would be at liberty to resume possession on the property.

Though tall claims are being made by the Corporation but even while making such submission there is nothing on record to show as to why the lease deed has not been executed. A supplementary affidavit has been filed in the proceedings enclosing an application



filed by the son of late Raghubir Sharan Sinha namely Om Prakash Kishore who happens to be the husband of the present petitioner. Mr. Srivastava, learned Senior Counsel for the petitioner with reference to the said application which is dated 31.3.2016 placed at Annexure-13 submits that the husband of the petitioner after obtaining no objection from his siblings, has applied before the Commissioner for transfer of the ownership of the house in question along with a prayer to execute the necessary lease deed and thus in the changed circumstances the petitioner would be satisfied if appropriate directions are issued to the Commissioner to consider the application filed by the son of the original allottee and its disposal in accordance with law.

Mr. Verma on the other hand canvases the stand of the Corporation to submit that the vigilance case initiated against the allottees would be an impediment in this regard.

I have heard learned counsel for the parties and I have perused the records.

The action initiated by the Corporation whatsoever pending consideration in the Vigilance case is an entirely distinct issue to the grievance so raised in the present writ petition which inter alia raises grievance against non execution of a lease deed which is pending since 19.6.1962 i.e more than half a century. The nature of the grievance as originally raised in the writ petition stands modified by

the application present at Annexure-13 and is entirely distinct to the objection raised by Mr. Verma relying upon the institution of the vigilance case. A right to a transfer of ownership and execution of the lease deed has to be considered on its own merits and thus even if a vigilance case is pending for alleged violations, such pendency cannot obstruct the right vested in the successor to the allottee for transfer of ownership as well as for registration/execution of a registered lease deed.

In the circumstances discussed, for the present I deem it fit and proper to dispose of this writ petition with the direction to the Commissioner, Patna Municipal Corporation to consider the prayer of the applicant who happens to be the husband of the petitioner as present in his representation dated 31.3.2016, a copy of which is present at Annexure-13 and dispose of the same in accordance with law and after giving an opportunity of hearing to the said applicant preferably within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is accordingly disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.05.2016
Transmission Date	