

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15021 of 2011

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1. Pradip Thakur S/O Sri Rajeshwar Thakur R/O Vill.- Usrahi, P.S.- Deodha, Distt.- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, Animal Husbandry Department Govt. of Bihar, Patna
3. The Regional Director, Animal Husbandry Department, Darbhanga
4. The District Animal Husbandry Officer, Madhubani
5. The Goshala Development Officer, Head Office at Patna
6. The Registrar of Gishala, Bihar State Goshala Pinjarapole Federation Govt. of Bihar, Patna
7. The District Magistrate, Madhubani
8. The Sub-Divisional Magistrate-Cum-Chairman, Sri Krishna Goshala Society, Jaynagar, Madhubani
9. The Sub- Divisional Magistrate, Jaynagar, Madhubani
10. Sri Krishna Goshala Society, Jaynagar, Madhubani through its Manager
11. Manoj Kumar Ghosh S/O Krishna Lal Yadav R/O Vill.- Usrahi, P.S.- Deodha, Distt.- Madhubani

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 19315 of 2011

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1. Pradip Thakur S/O Sri Rajeshwar Thakur R/O Village-Usrahi, P.S.-Deodha, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Animal Husbandry Department, Government of Bihar, Patna.
3. The Regional Director, Animal Husbandry Department, Darbhanga.
4. The District Animal Husbandry Officer, Madhubani.
5. The Goshala Development Officer, Head Office at Patna.
6. The Registrar of Goshala, Bihar State Goshala Pinjarapole Federation, Government of Bihar, Patna.
7. The District Magistrate, Madhubani.
8. The Sub-Divisional Magistrate-Cum-Chairman, Sri Krishna Goshala Society, Jaynagar, Madhubani.
9. The Sub-Divisional Magistrate, Jayanagar, Madhubani.
10. Sri Krishna Goshala Society, Jaynagar, Madhubani through its Manager.
11. Manoj Kumar Ghosh S/O Krishna Lal Yadav R/O Village-Usrahi, P.S.- Deodha, District-Madhubani.

.... Respondent/s

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Appearance :

(In CWJC No. 15021 of 2011)

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.

For the Respondent/s : Mr. J.S. Arora, SC6

(In CWJC No. 19315 of 2011)

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.

For the Respondent/s : Mr. Nirbhay K.Singh, GP26

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date: 29-02-2016

Whereas in C.W.J.C.No.15021 of 2011 (hereinafter referred to as the 'first writ petition') the petitioner has questioned the notice bearing Memo No. 136 dated 2.8.2011 whereby the petitioner has been asked to vacate the Shop No.5 allotted to the private respondent which notice stands issued in the light of the order passed by this Court in C.W.J.C.No.11790 of 2010 and has been impugned at Annexure-1 to the writ petition, C.W.J.C.No.19315 of 2011 has been filed by the petitioner praying for recall of the judgment and order dated 13.7.2011 passed by this Court in C.W.J.C.No.11790 of 2010.

Since the issues raised in the two writ petitions are overlapping and arise from an order passed by this Court in C.W.J.C.No.11790 of 2010 hence these matters were assigned to this Bench.

With the consent of the parties the two writ petitions have been heard with a view to their final disposal at the stage of admission itself.

It is not in dispute rather is an admitted position that the private respondent herein is an allottee from the society of which the Sub Divisional Magistrate, Jamui happens to be the Chairman. It is on



account of forceful ouster claimed by the private respondent at the hands of the society and the present writ petitioner that he moved this Court in C.W.J.C.No.11790 of 2010. The private respondent as a petitioner in the said writ petition prayed for restoration of the possession of the Shop No.5. The order passed by this Court on the writ petition discusses the matter in contest and the reasons for the ouster of the private respondent. The order takes note of the stand of the State that it is following the order of the Sub Divisional Officer that the shop was vacated from the possession of the private respondent herein, who is the original allottee and settled with the writ petitioner herein, as the sublettee. This Court taking note of the common order passed by a coordinate bench in C.W.J.C.No.5123 of 2010 and C.W.J.C.No.6513 of 2010 whereby the society was directed to restore possession of the shops to the original allottee inter alia on grounds that the dispossession had been carried out without cancellation of allotment as well as the identical circumstances existing where there was no dispute that the private respondent herein was the original allottee and the shop stood subletted to the writ petitioner herein as well as the fact that in the dispute ensuing, the private respondent was dispossessed, directed the Sub Divisional Officer to restore possession of the shop in question to the private respondent in the light of the orders passed in C.W.J.C.No.5123 of

2010 and C.W.J.C.No.6513 of 2010.

The notice impugned in the first writ petition is following the order passed by this Court and the second writ petition endeavours to seek a review of the order so passed in the writ petition i.e. C.W.J.C.No.11790 of 2010. The grounds raised by Mr. Binod Kumar Singh for the relief so prayed herein is that:

- (a) The private respondent as a writ petitioner in C.W.J.C.No.11790 of 2010 had suppressed material fact regarding subletting; and
- (b) The private respondent was not an aggrieved person but it is only by virtue of the order passed by a Bench of this Court in C.W.J.C. No. 5123 of 2010 and C.W.J.C.No.6513 of 2010 that he has tried to take benefit of the same.

In my opinion, either of the issues raised by Mr. Singh, does not call for any indulgence for each of the issues was much in consideration before this Court in the earlier round of proceedings arising from C.W.J.C.No.11790 of 2010 and this Court being fully aware of the circumstances existing and being conscious about the fact that the shop had been sublet to the writ petitioner herein by the private respondent yet the respondents could not have forcefully ousted the original allottee without cancelling the allotment, allowed the prayer of the private respondent in tune with the order passed in

C.W.J.C. No. 5123 of 2010 and C.W.J.C. No. 6513 of 2010. There was thus neither any suppression by the private respondent at that stage nor did this Court dispose of the writ petition bearing C.W.J.C.No.11790 of 2010 being ignorant of the fact of subletting rather this fact stands noted in the judgment and order of this Court.

Mr. Singh learned counsel for the petitioner submits that some kind of deposit had been made by this writ petitioner before the society and for which directions may be issued for its refund. I'm afraid that in absence of any such prayer made in these writ petitions, the only liberty which this Court can grant to these petitioners is to represent before the society concerned to raise such grievance and which shall be considered and disposed of in accordance with law by the Sub Divisional Magistrate expeditiously and preferably within three months of its receipt. However, not finding any reasons to interfere with the order passed in C.W.J.C.No.11790 of 2010, the two writ petitions stands disposed of.

(Jyoti Saran, J)

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