

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12415 of 2015

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1. Ram Kumar Pandit Son of Late Sitadin Mallik Resident of Village -
Amta, Police Station - Baheri, P.O. - Narayan Dohat, District - Darbhanga,
At present Mohalla - Khaja Sarai, Police Station - Laheriyasarai, District -
Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate, Darbhanga.
3. Sub-Divisional Magistrate, Sadar, Darbhanga.
4. Anchal Adhikari, Bahadurpur, District - Darbhanga.
5. Darbhanga Municipal Corporation, Darbhanga through its Municipal
Commissioner, Darbhanga Nagar Nigam, Darbhanga.
6. Municipal Commissioner, Darbhanga Nagar Nigam, Darbhanga.
7. Chief Executive Officer, Darbhanga Nagar Nigam, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh, Adv.

For the Respondent/s : Mr. Nasim Yahya, G.P.13

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 27-01-2016 Heard Mr. Jitendra Prasad Singh, learned counsel for the
petitioner, learned counsel for the State and Mr. Bindhyachal Rai,
learned counsel for the Darbhanga Municipal Corporation.

The petitioner is aggrieved by the order dated 13.7.2015 of
the Municipal Commissioner impugned at Annexure-4 whereby
the allotment of piece of land made in favour of the petitioner on
the bus stand road admeasuring 10 ft. x 15 ft. was cancelled on
grounds of repeated encroachment made by the petitioner over a
larger area.

This matter was taken up on 13.8.2015 and when Mr.
Jitendra Prasad Singh learned counsel for the petitioner by filing
an affidavit made a submission that the petitioner undertakes not

to exceed the settled area of 150 sq. ft. in future. An affidavit to that effect has also been filed.

It is submitted by Mr. Singh that the petitioner is holding lease since 1999 and except for the allegation of encroachment, there is no other complaint nor the petitioner has defaulted in payment of the annual fee. Mr. Singh further with reference to the impugned order passed by the Municipal Commissioner present at Annexure-4 has submitted that the impugned order also rests only on the charge of encroachment and not on default by the petitioner.

A counter affidavit has been filed on behalf of the Corporation and Mr. Rai with reference thereto has submitted that despite warning the petitioner has not corrected himself.

Having heard learned counsel for the parties and considering that the impugned order rests on the charge of encroachment made by the petitioner in excess of the allotted area and taking into consideration the undertaking given by the petitioner in his supplementary affidavit to abide by the allotment and remain within the allotted area of 150 sq.ft. as also taking into consideration that the impugned order does not refer to any default in payment of the renewal fee by the petitioner, I am of the opinion that the order cancelling allotment is rather harsh and the petitioner may be given one more opportunity to correct himself

failing which the respondent-Commissioner would be well within his jurisdiction to pass appropriate orders.

In the circumstances discussed, this Court while quashing the impugned order dated 30.7.2015 would direct the petitioner to abide by his undertaking to remain within the allotted area of 150 sq. ft. and in case the petitioner is found to be violating his undertaking given before this Court then the Municipal Commissioner would be at liberty to pass a fresh order in accordance with law.

Mr. Jitendra Prasad Singh submits that the petitioner may be granted liberty to apply before the corporation for allotment of additional area. In my opinion the submission is acceptable and the petitioner would be at liberty to make such application which shall be considered by the Municipal Commissioner and be disposed of in accordance with law.

The writ petition is allowed.

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(Jyoti Saran, J)