

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6464 of 2017

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1. Bijay Prasad Gupta, Son of Late Harilal Prasad,
 2. Ramautar Prasad, Son of Late Kuldip Singh.
 3. Chanchala Devi, Wife of Arun Kumar Gupta.
 4. Munnilal, Son of Late Sardar Sao.
 5. Pramod Kumar, Son of Late Bindeshwari Prasad.
 6. Karuna Devi, Wife of Late Mathura Rajak.
 7. Subodh Kumar Choudhary, S/o Lalit Mohan Choudhary. All are resident of Mohalla- Ramna Road, Near Jain Mandir, Mahadeo Ghat, Ward No. 22, Police Station- Civil Lines, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development Department, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Circle Officer, Chandauti, Gaya.
4. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2
For the Respondent/s : Mr. Yogendra Pd. Sinha- Aag7

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-05-2017 Heard Mr. Manish Kumar, learned counsel for the petitioners, Mr. Ravindra Priyadarshi, learned counsel for the Gaya Municipal Corporation and learned AC to AAG-7.

The present writ application has been filed for restraining the respondent authorities from demolishing the residential house of the petitioners situated at Mohalla-Ramna Road, near Jain Mandir, Mahadeo Ghat, Ward No. 22, Police Station-Civil Lines, District Gaya, in pursuance to the notice dated 10.11.2016 contained in Annexure-5 issued by the Municipal



Commissioner, Gaya Municipal Corporation directing the petitioners to remove the structure within fifteen days. Further prayer has been made for issuance of direction to Respondent authorities to not demolish the house of the petitioners pursuant to the public notice published in the daily newspaper “Hindustan” dated 23.04.2017 as contained in Annexure-7, whereby it has been notified that several houses have been marked at Ramna Road, Gaya for demolition. The said public notice includes the houses of the petitioners also.

It is submitted by learned counsel for the petitioner that Chairman of the Gaya Municipal Corporation was authorized by the Municipal Board to execute the sale deed with respect to Khesra No. 13589 in the meeting held in the year 1944 and in pursuance to that, the property was auctioned/settled in favour of one Babu Mahabir Prasad through sale deed executed on 13.01.1945. The sale deed with regard to the land in question in favour of Babu Mahabir Prasad has been brought on record as Annexure-1. Thereafter, the name of Babu Mahabir Prasad was mutated and accordingly the rent receipt was issued in his favour. The holding number was also created with regard to the land in question in favour of Babu Mahabir Prasad and after his death, his wife namely Sonmati Kunwar was paying the rent of the land in



question. The wife of said Babu Mahabir Prasad transferred the land in question in favour of the petitioner nos. 1, 2, 5, 6 and 7 through registered sale deeds on different dates i.e. 01.06.1979, 31.05.1979 and 25.02.2008 and consequently, on the application of the petitioners, the names of the petitioners were entered into the municipal records and they are regularly paying the rent of the land in question. The rent receipts of the land in question has been brought on record as Annexure-3 to the writ application.

So far as petitioner No. 3 Chanchala Devi is concerned, she purchased the piece of land from one Shiv Shankar Prasad through registered sale deed dated 12.11.1987 and after purchase, her name was also mutated and she is paying the rent to the municipality. The same has been brought on record as Annexure-4.

With regard to claim of petitioner no. 4 Munnial, no specific statement has been made in the writ petition.

It is further submitted that petitioners were shocked after receiving the notice dated 10.11.2016 from Gaya Municipal Corporation, whereby they were informed that they have encroached part of the land of Plot Nos. 13589, 13578, old 1142, 1143 new hence they were directed to remove the encroachment within a period of 15 days. The same has been



brought on record as Annexure-5.

The petitioner No. 1, in pursuance to the said notice dated 10.11.2016 as contained in Annexure-5 filed the reply on 22.11.2016 which has been brought on record as Annexure-6, but thereafter another public notice was published in daily newspaper “Hindustan” on 23.04.2017 as contained in Annexure-7, which suggests that 25 houses including the houses of the petitioners were marked for demolition, hence the present writ application.

It is submitted by learned counsel for the Gaya Municipal Corporation that since the petitioners failed to comply the notice dated 10.11.2016 issued against them vide Annexure-5, hence, a public notice was issued in daily newspaper Hindustan on 23.04.2017. It is further submitted that neither in the old Municipal Act nor in the new Municipal Act, there is any provision that the Chairman of the Municipality can transfer the land of the Municipality to an individual. The alleged sale deeds have not yet been produced before the Commissioner, Gaya Municipal Corporation. The Gaya Municipal Corporation is ready to hear the affected persons before passing any effective order. The petitioners have blocked the drainage of the area, hence the Municipal Corporation has to act urgently before the rain starts.



Considering the rival submissions of the parties, the writ application is disposed of with liberty to the petitioners to file their stands/respective reply to the notices contained in Annexure Nos. 5 and 7 within a period of one week from the date of receipt/production of the copy of this order along with the respective documents in support of their claims, when it is expected from the Commissioner, Gaya Municipal Corporation, respondent No. 4 to hear all the affected persons including the petitioners and pass a reasoned order within a period of two weeks from the date of submissions of their reply to the notices above mentioned.

Till the order is being passed, it is expected that the status quo with regard to the land in question as existing today, shall be maintained.

However, the status quo order will not preclude the Gaya Municipal Corporation to clean or drain out the stagnant water from the land in question.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

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