

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7526 of 2017

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1. Lodge Patna No. 105 GLI through its Secretary situated at Buddha Marg Mohallah Lodipur, PS Kotwali, District Patna.
 2. Krishna Ranjan, Secretary, Lodge Patna no. 105 GLI presently residing at 39-B, Srikrishnapuri, Shdeo Mahto Marg, PO and PS Srikrishnapuri, Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Building Construction Division, Patna.
2. District Magistrate, Patna.
3. Sr. Superintendent of Police, Patna.
4. Addl. District Magistrate (Law & Order), Patna.
5. Executive Engineer, Patna Building Division, Lodipur, Patna.
6. Competent Authority, Building Construction Division, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajnandan Kumar, Adv.
Mr. Ajay Kr. Sinha, Adv.
Mr. Prakash Sahay, Adv.
For the State : Mr. Sushil Kumar- GP-22
Mr. Krishna Kumar Singh, A.C. to G.P.-22.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-05-2017 Heard learned counsel for the petitioners and learned
A.C. to G.P.-22 for the respondents.

The present writ application has been filed for setting aside the order no. 3090 dated 30.09.2016 issued by the Competent Authority, Building Construction Department, Patna under the Bihar Government Premises (Rent, Recovery and Eviction) Act, 1956, by which an order has been passed directing the eviction of two persons, from the premises occupied by Lodge Patna and thereafter the Executive Engineer, Building



Construction Division, Patna has been repeatedly requisitioning the deputation of force from the Additional District Magistrate (Law & Order), Patna for eviction of Lodge Patna No. 105 GLI from the property which is in the possession of Lodge Patna since 1934, by virtue of a lease agreement.

I.A. No. 3979 of 2017 has been filed for staying the execution of the order dated 30.09.2016, until the disposal of the case.

The petitioner no.1 is a body corporate, while the petitioner no.2 is the Secretary of Lodge Patna No. 105 GLI (Grand Lodge of India i.e. the petitioner no.1).

Shorn of unnecessary details, what gets unveiled from the submissions made on behalf of the petitioner and the respondents is to the effect that a piece of land was leased to the petitioner no.1 by the Executive Engineer, Patna Division vide a registered deed dated 11.12.1934, as contained in Annexure-3 to the writ application. The lease was valid for a period of 50 years, i.e., upto 01.07.1984. Clause 18 of the lease deed provided a stipulation for renewal of the lease after the expiry of the lease period and in view of the same, the petitioners have preferred a request for renewal of lease on 10.04.2017, as is contained in Annexure-4 to the writ application. It is submitted that the State



Government never came forward for renewal of the lease after the expiration of the terms of 50 years of lease.

Subsequently, vide Letter No. 10526 dated 15.12.2016, (as contained in Annexure-P/6) the Executive Engineer, Patna Division, asked for deputation of Magistrate and Police force for eviction of the two persons, i.e., Md. Amiruddin and caretaker Shri Amit Kumar. In this letter, as well as in the letter under challenge in the present, the ground of eviction of the aforesaid two persons, was stated that they have illegally encroached the Government building constructed on a plot of land at Lodipur and belonging to Building Construction Department, and they used to let out the house for wedding ceremonies. Accordingly, on 22.12.2016, a Magistrate along with armed force entered the premises along with the eviction order, which was signed by the Additional District Magistrate, (Law and Order), Patna.

In response to the same, a letter dated 24.12.2016 (as contained in Annexure-P/8) was submitted by the petitioner no.2, which was addressed to the District Magistrate, Patna i.e., respondent no.2, wherein it was contended that no prior notice was given to the Lodge or to any of its officers, and on the asking of one of the Member of the petitioners, 15 days time was given to furnish details. It was further stated that the notice did not contain



the description of Property which had to be evicted and that how the same involved the petitioner, was also not mentioned. It was also contended that the notice was in the name of one Md. Amiruddin and Amit, who are not the owner of the property. It was clarified that the property belonged to Lodge Patna, i.e., the petitioners. The learned counsel for the petitioner further contended that it was wrong to say that the Building thereon was a Government Building, rather it was constructed and maintained by the petitioner. It was finally contended that the property was in possession of the petitioner by virtue of a lease of 1934 and since the terms and conditions were being adhered to by the petitioner, the eviction process was wrongly being undertaken.

In response to such letter by the petitioner, the Executive Engineer, Patna Building Division, Patna issued Letter No. 1119 dated 31.01.2017, to the petitioner, to the effect that the period of lease deed already expired on 01.07.1984 and since the same was not renewed, the possession of the premises by the petitioner, thereafter, amounted to illegal possession. Hence, the petitioners were further directed to vacate the premises. The petitioner then preferred a writ application bearing C.W.J.C. No. 513 of 2013 against such eviction process, which was subsequently withdrawn on 23.02.2017, (as contained in



Annexure-P/11) in order to approach the Authority for redressal of their grievances.

The matter was then taken up by the petitioners to the competent Authority, Building Construction Department, Government of Bihar and accordingly, an Appeal has been filed before the Secretary-Cum-Appellate Authority, Building Construction Department, Bihar, Patna on 09.05.2017, for staying and quashing of Order No. 3090 dated 30.09.2016. The petitioners have repeatedly contended in their communications to the respondent authorities as well as in the Appeal (as contained in Annexure-p/18) that the two persons, i.e., Md. Ammiruddin and Mr. Amit, in whose names the notice dated 30.09.2016 has been issued, are strangers to the petitioners, and that they are not the functionaries of the petitioners i.e., Lodge Patna and in garb of these two names, the petitioner, i.e., Lodge Patna is being evicted from the property in concern, which is in the possession of the petitioners by virtue of a Lease Agreement of 1934, with regard to which they have given a request letter for renewal of the lease.

The learned counsel for the petitioners submits that he confines his prayer to the extent that the Appellate Authority may be directed to decide the Appeal dated 09.05.2017 and till then status quo as existing today be maintained. Such prayer of the



petitioner is also not being objected by the learned counsel appearing for the respondent State.

Hence, in view of the above submissions, certain admitted facts and on ground of equity, without going into the merits of the case, this Court directs the Appellate Authority to dispose of the Appeal preferred by the petitioner on priority basis, preferably within a period of eight weeks, from the date of receipt/production of copy of this order and shall take the Appeal to its logical conclusion within such period in accordance with process of law. It is further directed that till the date of disposal of appeal within the stipulated time period, status quo, as existing today, of the premises under dispute, shall be maintained.

However, it is being made clear that this order shall have no bearing with regard to the maintainability and merits of the application.

Accordingly, the present writ application as well as I.A. No. 3979 of 2017 is disposed.

(Dinesh Kumar Singh, J)

Amrendra/-

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