IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 8248 of 2016

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Moina Khatoon, Wife of Late Sarfuddin, Resident of Mohalla- Gudri Bazar Salaptganj, P.S. Chapra Town, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Collector, Saran.
3. The Executive Officer, Nagar Parishad, Chapra
4. Wahidul Haque, S/o Late Nazirul Haque @ Multan Mian R/o Mohalla- Shyam Chak, Gudari Main Road, P.S. Bhagwan Bazar, District- Saran.
5. The Superintendent of Police, Saran at Chapra.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 11263 of 2017

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Wahidul Haque, Son of Late Nazirul Haque @ Multan Mian, resident of Mohalla- Shyam Chak, Gudari Main Road, Police Station- Bhagwan Bazar, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Patna.
2. The Collector, Chapra.
3. The Nagar Parishad Chapra through its Executive Officer, Chapra.
4. The Executive Officer, Nagar Parishad, Chapra.
5. Md. Asgar Ali, Tax Collector, Nagar Parishad, Chapra.
6. Moina Khatoon, Wife of Late Sarfuddin, resident of Mohalla- Gudari Bazar, Salapalganj, Chapra.

.... Respondent/s

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Appearance :

(In CWJC No.8248 of 2016)		
For the Petitioner/s	:	Mr. Gyan Prakash, Advocate
For the State	:	Mr. Subhash Prasad Singh, G.A. 3
(In CWJC No.11263 of 2017)		
For the Petitioner/s	:	Mr. Gyan Prakash and Mr. Ajay Kumar, Advocates
For the State	:	Mr. N. H. Khan, S.C. 1 Ms. Babita Kumari, A.C. to S.C. 1 Mr. Indu Bhushan, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 18-08-2017

Heard learned counsel for the parties.

2. The relief sought for in the two writ applications is as follows:

C.W.J.C. No. 8248 of 2016

"(i) For issuance of a writ in the nature of certiorari to quash the order as contained in annexure-5 through which tax receipt has been with held by the Respondent No. 3.

(ii) To grant any other relief or reliefs for which petitioner is entitled to."

C.W.J.C. No. 11263 of 2017

" i. For setting aside the Municipal Tax Receipt No. 40299 dated 16.11.2015 issued by the Tax Collector, Nagar Parishad, Chapra, respondent no. 5, as the same has been issued for Collection of Municipal rent of Holding No. 885/A of Circle No. 24 in the name of Md. Sarfuddin (died in 2001) as there is no land pertaining to Holding No. 885/A in Circle No. 24 within Chapra Nagar Parishad and the same has been created in the year 2015 only at the time of issuing this receipt with a view to create cloud on petitioner's ancestral land of having Holding no. 885, further for the fact that Sarfuddin has no land in the concern Khata No. 1204 S.P. No. 510 as his grant father Abdul Razak had sold the land of his share prior to 1940 and purchasers had constructed the houses having their separate holdings and houses are still standing there.

ii. For quashing order dated 15.12.2015 passed in case no. 342/2015-16 by the Executive Officer, Nagar Parishad, Chapra by which name of Moina Khatoon, respondent no. 6 has been mutated against Holding no. 885/A of Circle No. 24 for the land having area of 3240 sq. ft. of ancestral land of her husband *when no such land is available of ancestor of her husband against Holding No. 885/A of Circle No. 24 of Chapra Nagar Parishad nor even this Holding No. 885/A was ever in existence prior to issuance of the alleged Municipal Rent Receipt dated 16.11.2015 getting rent from 1980, for 33 years at one time. In fact respondent no. 6 with the connivance of respondent no. 4 and 5 created these papers to grab the petitioner's ancestral land in very short span of time, without having any general notice, without impleading the petitioner as party or without having any inspection of land, merely relying on the so called report of respondent no. 5 who later on given another report contrary to his earlier report.*

iii. For quashing order of the Executive Officer, Nagar Parishad, Chapra contained in letter no. 81 dated 17.01.2017 which is issued in ante dating only, in connivance with respondent no. 5 and 6 and petitioner has never been called by him to place his case nor even the Executive Officer, Nagar Parishad, Chapra has examined the factual aspect and actual position of the land as his Tax Collector, respondent no. 5 has submitted second report on 7.1.2016 contrary to his earlier alleged report, stating therein that the land in question in the possession of the petitioner and his family members.

iv. For issuance of direction for taking appropriate legal action against the responsible persons who have misused their power and position.

v. For any other relief(s) for which the petitioner found entitled to in the facts of the case."

3. However, according to the Court, the issue is short and simple. It relates to whether Holding No. 885A is genuine and whether has been carved out of the erstwhile 885 and to what extent

and further, the mode, modality and manner in which such carving out has been done i.e., in accordance with the relevant provisions of the statutes.

4. In view of the aforesaid, the Court by earlier orders had directed the Superintendent of Police, Saran to conduct an enquiry and submit a report. In terms thereof, the Superintendent of Police, Saran is present in Court and has also submitted a report. He has categorically stated that in the register maintained by the Chapra Nagar Nigam, which has been recently upgraded from Chapra Nagar Parishad, *prima facie*, it appears that Holding No. 885A has been interpolated and added in a different pen, for which reasons have been assigned in the enquiry as to how the same is reflected. It would be relevant to indicate here that even the Chapra Nagar Nigam has taken a stand that there is no order for creation of a new Holding No. 885A and only an entry has been made in the record, for which show cause has been issued to the concerned Tax Collector, who had given a report in favour of creation of Holding No. 885A.

5. All these reflect both illegality and connivance.

6. On a query to the Superintendent of Police, Saran as to whether he would be in a position to conduct a thorough and detailed enquiry/probe into the issue as to how Holding No. 885A was

written in the records of the Chapra Nagar Nigam/ erstwhile Chapra Nagar Parishad, the answer is in the affirmative.

7. In view of the aforesaid, the matter is referred to the Superintendent of Police, Saran to institute an appropriate proceeding and set up a team of competent persons to conduct a thorough enquiry/probe and fix responsibility for irregularities found. Depending on such enquiry by the police, copy of which shall also be forwarded to the Chapra Nagar Nigam, follow up action shall be taken both by the Chapra Nagar Nigam Authorities as well as the police, who shall proceed in the matter, in accordance with law, depending on the report.

8. In view of the order passed, as the issue pertaining to creation of Holding No. 885A itself has to be decided by the police and the authorities of the Chapra Nagar Nigam, the relief as to whether receipt shall be granted or not for such Holding shall obviously be consequential.

9. As has been suggested by the Superintendent of Police, Saran, the exercise be completed within one month. It goes without saying that the enquiry shall take into consideration the role of all the officials of the Chapra Nagar Nigam and the erstwhile Chapra Nagar Parishad including its Executive Officer, Tax Collector etc. as well as its elected persons and private persons concerned. The

Superintendent of Police, Saran is given liberty to inform the Court if he has any pressure from any quarter whatsoever.

10. The writ petitions stand disposed off in the aforementioned terms.

11. The personal appearance of the Superintendent of Police, Saran stands dispensed with.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
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