

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3139 of 2015

IN

Civil Writ Jurisdiction Case No. 18928 of 2014

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Vinod Kumar, son of Sri Pitambar Sahi, resident of Village- Suratganj, Ward No.15, P.S.- Madhubani Town, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Urban Development, Govt. of Bihar, namely Sri R.K. Mahajan.
2. Sri Kuldeep Narayan, the District Magistrate, Madhubani.
3. Sri Hakim Prasad, the Deputy Development Commissioner –cum- Chief Executive Officer, District Board, Madhubani.
4. Sri Jata Shankar Jha, the Executive Officer, Nagar Parishad, Madhubani.
5. Sri Khalid Anwar, the Chairman, Nagar Parishad, Madhubani.
6. Union of India through Secretary, Ministry of Rural Development, Department of Land Resources, Government of India, New Delhi.
7. Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Md. Imteyaz Ahmad, Adv.
For the Respondent-State	:	Mr. Sarvesh Kr. Singh, AAG-13 Mr. Ravi Kumar, AC to AAG-13
For the Respondent-UOI	:	Mr. Anshuman Singh, CGC
For the Respondent-Municipality:		Mr. Purushottam Jha, Adv. Mr. Vikash Kumar, Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-07-2017

Heard Mr. Ajay Kumar Thakur, learned counsel appearing for the petitioner who appears along with Md. Imteyaz Ahmad, the Advocate on record, Mr. Sarvesh Kumar Singh, learned Additional Advocate General No.13 for the State, Mr. Purushottam Kumar Jha, learned counsel appearing for the Municipality and Mr. Anshuman Singh, learned Central Government Counsel for the Union of India.

This contempt application was filed complaining non-



compliance of the direction issued by this Court in its order dated 5.2.2015 passed in CWJC No.18928 of 2014, whereby the writ petition was disposed of with a direction to the Executive Officer, Nagar Parishad, Madhubani to take every possible steps for ensuring completion of the construction work of shops and for its allotment within six months from the date of the order.

A show cause was filed in the present proceeding and the stand taken is that the nature of the land was found to be *Kaiser-e-Hind* and thus in the opinion of the Municipality whatsoever construction was done by the Municipality, was without jurisdiction since the Municipality held no control over the land and thus the money deposited was returned to the allottees, along with interest. This action was questioned by Mr. Thakur to submit that it is avoidance of responsibility by the Municipality since in terms of section 100 of the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act'), the land has indeed vested in the Municipality.

Since the nature of the land was classified as *Kaiser-e-Hind* hence in the nature of contest at hand, the Union of India in its Ministry of Rural Development, Department of Land Resources, New Delhi was added as a party to explain the situation in the light of the provisions underlying Articles 294 and 295 of the Constitution of India as to whether the land has been retained by the Government of India for its own use or stands transferred to the



State.

An affidavit was filed by the Ministry of Land Revenue, Department of Land Resources, Government of India in which it is stated that even though the nature of land in question is *Kaiser-e-Hind* but it is now vested in the State of Bihar. It is in consideration of the stand taken by the Union of India in their affidavit that the Secretary, Department of Revenue and Land Reforms, Government of Bihar was added as party to inform as to whether the land in question would fall within the jurisdiction of the Municipality for its utilization.

It is following the direction of this Court that the Secretary, Department of Revenue and Land Reforms has filed a show cause and in which it is stated that the land in question having vested in the State of Bihar has been retained by the State in its Revenue and Land Reforms Department. According to the Secretary, Department of Revenue and Land Reforms, the land in question has not been transferred to the Municipality for their use.

In view of the stand so taken by the newly added Secretary, Department of Revenue and Land Reforms as to the classification as well as on the ownership of the land which, according to the affidavit, is retained by the State Government in its Revenue and Land Reforms Department, the action complained of by the petitioner as against the Municipality in returning the amount



deposited by them for allotment of shop cannot be held to be a violation of the order passed on the writ petition.

Though Mr. Thakur, learned counsel appearing for the petitioner at this stage endeavours to question the stand of the State Government in holding on to the land in question, in reference to the provisions underlying section 100 of ‘the Act’ and to submit that the stipulations are rather clear and the land in question would automatically vest in the Municipality but in my opinion, the contest so sought to be raised would require an adjudication by an appropriate forum and the petitioner, if so advised, can take recourse thereto by filing an appropriate application before the appropriate forum but in the circumstances so discussed, no case for contempt is made out.

The contempt application is accordingly disposed of.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24-07-2017
Transmission Date	NA

