

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.313 of 2016

IN

Civil Writ Jurisdiction Case No. 995 of 2014

- =====
1. Ram Pravesh Singh son of Late Kedar Nath Singh resident of Mohalla Bajrangpuri, Near Shiv Shankar Apartment, Gai Ghat, P.S. Alamganj, Town and District Patna.
 2. Shashi Bhushan Choudhary son of Late Ram Pukar Choudhary resident of House No. B/1, Sector D/1, Kankarbagh, P.S. Kankarbagh, Town & District Patna.
 3. Avinash Kumar Singh son of Sri Ratan Kumar Singh resident of mohalla Transport Nagar, P.S Agam Kuan, Town & District Patna.
 4. Vishwanath Mahto
 5. Shivnath Mahto both sons of Late Chakradhar Mahto
 6. Tarkeshwar Singh son of Sri Vishwanath Mahto
 7. Ritesh Kumar son of Shivnath Mahto all residents of Mohalla - Tulsi Mandir, P.O. Gulzabagh, P.S. Alamganj, Town and District - Patna.

.... Petitioner/s

Versus

1. M/s Transolution Pvt. Ltd. through its Personal Manager Cum Authorized representative namely Gopi Ram Verma son of Sri Madan Lal Verma resident of 214/1, Sector-6, Block No. D/6, Rohini, New Delhi - 110085.

..... Opposite parties

2. The State of Bihar through the Secretary, Department of Urban Development, State of Bihar, Patna.
3. The Patna Municipal Corporation through its Secretary, Block - C, IVth Floor, Maurya Lok, Patna - 1.
4. The Municipal Commissioner, Patna Municipal Corporation, Block - C, IVth Floor, Maurya Lok, Patna - 1.
5. The Additional Municipal Commissioner, Patna Municipal Corporation, Block - C, IVth Floor, Maurya Lok, Patna - 1.
6. The Estate Officer, Patna Municipal Corporation, Block - C, IVth Floor, Maurya Lok, Patna - 1.
7. The Executive Engineer, Patna Municipal Corporation, Kankarbagh Works Division, Patna - 20.

(respondents in C.W.J.C.No.466 of 2014, C.W.J.C. No. 492 of 2014, C.W.J.C.No.544 of 2014 and C.W.J.C.No.995 of 2014)

.... Opposite parties

with

=====

Miscellaneous Jurisdiction Case No. 866 of 2016

IN

Civil Writ Jurisdiction Case No. 466 of 2014

- =====
1. M/s Transolution Pvt. Ltd. through its Personal Manager Cum Authorised Representative namely Gopi Ram Verma S/O Madan Lal Verma resident of 214/1 Sector-6, Block No. D/6 Rohini, New Delhi- 1100085.

.... Petitioner/s

Versus



1. The Secretary namely Sri Amrit Lal Meena, Department of Urban Development, State of Bihar, Vikas Bhawan, Patna.
2. The Commissioner namely Sri Jai Singh, Patna Municipal Corporation, Block-C, IV th Floor, Maurya Lok, Patna. 800001.
3. The Additional Municipal Commissioner namely Sri Sita Choudhary, Patna Municipal Corporation, Block- C, IVth Floor, Maurya Lok, Patna 800001.
4. The Estate Officer, namely Miss Arti, Patna Municipal Corporation, Block-C, IV th Floor, Maurya Lok, Patna 800001
5. The Executive Engineer namely Sri Bhola Nath Yagwik, Patna Municipal Corporation, Kankarbagh Works Division, Patna 20.

.... Respondent/s

=====

Appearance :

(In C. REV. No. 313 of 2016)

For the Petitioner/s : Mr. Nagadeo Choubey, Adv.

For the Respondent/s : Mr. Sanjay Prakash Verma, Adv.

(In MJC No. 866 of 2016)

For the Petitioner/s : Mr. Ashok Kumar Choudhary, Adv.

For the Respondent/s : Mr. Mithilesh Kumar Pathak, Adv.

Mr. Sanjay Prakash Verma, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-03-2017

Heard Mr. Ashok Kumar Choudhary, learned counsel for the petitioners, Mr. Sanjay Prakash Verma, learned counsel for the Corporation, learned counsel for the State and Mr. Pankaj Maijorwar, learned counsel for the review petitioners.

The contempt application bearing M.J.C.No.866 of 2016 has been filed by the writ petitioners complaining inaction on the part of the respondent Corporation in not carrying out the obligation cast against them under the orders of this Court passed in C.W.J.C.No.466 of 2014 and analogous cases whereby the Commissioner, Patna Municipal Corporation and its authorities were directed to restore the possession of the petitioner in terms of the lease deed/Land



Possession Certificate by clearly demarcating the extent of each of the plots in its northern portion which has been encroached in construction of a road and upon such demarcation being carried out that the petitioner was directed to construct the boundary wall thereon to avoid any future encroachments. A show cause is filed in which it is stated that a demarcation has taken place on 21.10.2016 in presence of the representative of the petitioner one Kanan Kumar Jha. The Corporation has also enclosed photographs of such demarcation. The petitioner albeit has disputed the exercise by filing a rejoinder to the show cause and in which it was stated that the matter remains as it is.

In between, a review application is filed by certain residents of the area praying for review of the order passed on the writ petition. According to the review petitioners, there was a canal running East to West on the Northern portion of the plots of the petitioner and by passage of time this took a shape of road and which is being used by the review petitioners and others since long. According to the review petitioners, the road is in existence since more than 50 years and any attempt by the writ petitioners to include the same within their plots would prevent the ingress and egress of the review petitioners.

In the nature of the dispute which engages the two petitions which are put to consideration before this Court where while the lease deed and the Land Possession Certificate dates back to the year 2009



and the fact remains that a portion of the leased out area admeasuring about 3650 sq. ft. on the Northern side of the plots allotted to these petitioners, is not within their use rather is in the use of people other than the petitioners, for their egress and ingress and any attempt on the part of the petitioners to include the said area within their possession has met with resistance, I am of the opinion that the matter would require a consideration by the Municipal Commissioner, Patna Municipal Corporation in terms of Clause 20 of the lease deed which inter alia vests jurisdiction on the Municipal Commissioner to refer any dispute arising in the implementation of the lease deed before a sole arbitrator and whose decision would be final and binding. The situation has arisen because of the undisputed situation existing where an area of 3650 sq. ft. of the leased out area in plot nos. 9 to 12 in its proportionate share, is not being utilized by the allottees.

In the circumstances, it would be within the jurisdiction of the Municipal Commissioner, Patna under Clause 20 of the lease deed either to refer the matter to the sole arbitrator or to find out a possible solution to the dispute. I may observe here that since an offer is made by the review petitioners to recompense the writ petitioners in case of any proportionate reduction of their area, this would again be a relevant consideration in the matter either for its resolution by the Municipal Commissioner, Patna or when placed for arbitration before



the sole arbitrator for balancing the equities.

As I have already indicated, in the nature of dispute which engages the present proceedings and taking note of the show case filed by the Corporation, I do not feel persuaded to continue with the contempt application.

Let the parties appear before the Municipal Commissioner, Patna Municipal Corporation on or before 3.4.2017 and when he shall proceed in the matter as stipulated above.

The contempt application and the review applications are accordingly disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.04.2017
Transmission Date	NA

