

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1760 of 2016

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1. The State Of Bihar
 2. The Collector, Patna
 3. The Senior Deputy Collector District Revenue Section, Patna
 4. The D.C.L.R., Sadar, Patna. Petitioner/s

Versus

1. Syed Sadique Imam son of Late Syed Haider Imam through Syed Abbas Imam Holder of Power of Attorney
 2. Syed Abid Imam son of Late Syed Haider Imam Both residents of Badar Ghat, Patna City, P.S.- Alamganj, District- Patna..... Respondent/s
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with

Civil Writ Jurisdiction Case No.18096 of 2015

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1. Moqiusur Rahman Arshad S/o Late Abdul Haffiz resident of Mohalla Mahamadpur, Shahganj, P.S. Sultanganj, P.S. Sultanganj District- Patna.
 2. Mehtab Alam S/o Late Akbar Hussain resident of Mohalla Alamganj PS Alamganj, District- Patna.
 3. Md. Akbar S/o Late Gaffar resident of Mohalla Sagunamor, Danapur, P.S. Danapur, Distt. Patna.
 4. Irshad Ahmad Son of Late Mokhtar Ahmad resident of Mohalla Mahammadpur, Shahganj, P.S. Sultanganj, District Patna
 5. Asif Yusuf s/o Late Suleman Yusuf of Mohalla Nasriganj Pathantoli, P.S. Nasriganj Distt. Patna
 6. Rizwana Arshad Wife of Moqiusur Rahman Arshad of Mohalla Shahganj Mohammadpur, P.S. Sultanganj, Distt. Patna.
 7. Md. Khurshid Ashraf s/o Late Md. Qamruddin r/o Sharif colony opp. Nuri Masjid, P.S. Pirbahore Distt. Patna
 8. Md. Tahseenul Abedin s/o Late Zainul Abedin of Mohalla Lalkothi Danpur Cantt, Distt. Patna
 9. Atique Haque son of Md. Izharul Haque of Mohalla Alamganj P.S. Alamganj Distt. Patna
 10. Md. Mokhtar son of Late Md. Muzaffar Ahmad of Mohalla Mirshikartoli P.S. Alamganj Distt. Patna. Petitioner/s

Versus

1. The State of Bihar through the Secretary Land Reforms Department Govt. of Bihar, Patna
 2. The Chairman Bihar Land Tribunal, Patna
 3. The Collector of Patna District Patna
 4. The Additional Collector, Patna
 5. The Deputy Collector Land Reforms Patna Sadar, Patna
 6. The Circle Officer, Patna Sadar Block, Distt. Patna
 7. Shed Sadique Imam son of Late Syed Haider Imam through Syed Avbas Imam Holder of Power of Attorney.
 8. Sye Abid Imam Son of late Syed Haider Imam, Both resident of Badar Ghat, Patna City P.S. Alamganj Distt. Patna. Respondent/s
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Appearance :

(In CWJC No.1760 of 2016)

For the Petitioner/s : Mrs. Khurshid Alam, AAG



For the Respondent/s : Mr. Samrendra Kumar Jha
Mr. Jitendra Kishore Verma
For the Intervenor : Mr. Nawal Kishore Singh
(In CWJC No.18096 of 2015)
For the Petitioner/s : Mr. Nawal Kishore Singh
Mr. Binoy Kumar
For the Respondent/s : Mr. J. P. Sharma, AC to- GP21
Mrs. Nivedita Nirvikar

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**
ORAL ORDER

11 30-01-2018 Heard Shri Khursid Alam, the learned AAG for the petitioners, Mrs. Nivedita Nirvikar, the learned counsel for the respondents, and Sri Jitendra Kishore Verma, the learned counsel for the intervenor in CWJC No. 1760 of 2016. Also heard Sri Nawal Kishore Singh, the learned counsel for the petitioners, and Mr. J. P. Sharma, the learned AC to GP 21 in CWJC No. 18096 of 2015.

In CWJC No. 1760 of 2016 the petitioners have challenged the order dated 16.01.2014 passed by B.L.T. in case No. 219/2013 whereby the learned Chairman, B.L.T., set aside the order dated 07.03.2012 of the Collector passed in Misc. case No. 06/2012-13.

The petitioners of CWJC No. 18096 of 2015 have also challenged the same order dated 16.01.2014 passed in B.L.T. case No. 219/2013 whereby the Chairman, B.L.T. set aside the order dated 07.03.2012 of the Collector passed in Misc. case No. 06/2012-13.

The relevant facts for disposal of these writ petitions is that the Collector initiated a proceeding vide Misc. case No. 6/2012-13 for taking possession of the lands of Ward No.8 (old) sheet No. 67, Khesra 257, 258, 261 and 262 (part), area 1 bigha 10 Katha on which the Patna Market is situated. The Collector



vide his order dated 07.03.2012 held that there is no document to show that Meena Bazar was demarcated separately from Patna Market. The land is ascertained by its boundary and plot Nos. In a proceeding initiated by DCLR in case No. 1/1968-69 land of Khesra No. 257, 258, 261 and 262 (part) 10 Katha 12 Dhur and 18 Dhurki was vested in the State of Bihar and possession of that part of Khesra No. 262, area 10 Katha 12 Dhur and 18 Dhurki is to be taken since the objection of the landlord was rejected.

In case No. 1/1968-69 the State of Bihar issued notification that plot No. 257, 258, 261, 262 on which Patna Market is situated is vested in the State of Bihar. The landlord filed CWJC No. 613 of 1968 (Most. Bibi Sayeeda v. State of Bihar & Ors) and the Full Bench of this court vide judgement and order dated 16.11.1984 passed in CWJC No. 45, 330, 387 and 613 of 1968 dismissed the writ petition holding that Hat Bazar has already been vested in the State of Bihar after abolition of Zamindari. In paragraph 20 of the said judgement it has been held that *“before parting with the judgement it must be made clear that the present application CWJC No. 613 of 1968 in respect of Patna Market is directed against a notice calling upon the petitioner to surrender possession of Patna Market. The State claim vesting in it only of Patna Market. There is another Bazar adjacent to it and which falls within the compound of the ex-proprietor Mr. Haidar Imam. This is popularly known as Meena Bazar. The notification under section-3 of Bihar Land Reforms Act will result in vesting of Patna Market only not Meena Bazar. This Meena Bazar was established much after the vesting of Zamindari in the State of Bihar. Learned Additional Advocate General frankly conceded that Meena Bazar can not vest and has not vested in State of*



Bihar. We, therefore, categorically lay down that although Patna Market has vested in State of Bihar, Meena Bazar has not vested”. Against this judgement the petitioner of the aforesaid writ petition (CWJC No. 613 of 1968) filed Civil Appeal No. 5047 of 1984 in the Apex Court and aforesaid Civil Appeal was heard along with Civil Appeal No. 5048 and 5046 of 1984, 332 of 1985 and 7547 of 1996. In the Apex Court a report was called for about the shops standing in the Patna Market. The Collector in his report dated 06.03.1986 addressed to the Assistant Registrar, Supreme Court reported that there are 132 shops including godown and the total area of the first floor is 25802 sq. feet and the total area of shops situated at first floor is 6500 sq. feet. Since then landlord surrendered the possession of the shops situated in Patna Market and the State of Bihar is realizing rent from all the 132 shops and the godown situated in Patna Market.

The present proceeding being Misc. case No. 6/2012-13 is initiated to take possession of the shops situated in plot No. 262 and the Collector has come to a finding that there is no papers on the record to show that the shops situated in Meena Bazar was demarcated and separate from the shop of Patna Market. The Collector held that the shops situated at plot No. 262 part is part of Patna Market and accordingly dismissed the petition of the landlord that the aforesaid land and the shops situated thereon is not part of Patna Market.

Mr. Khurshid Alam, the learned counsel for the petitioners of CWJC No. 1760 of 2016, and Shri Nawal Kishore Singh, the learned counsel for the petitioners of CWJC No. 1896 of 2015, vigorously made argument that plot No. 262 also stand vested in the State of Bihar by the order passed in Misc. case No.



01/1968-69 but I do not find any force and substance in the submission of learned counsel for the petitioners. The Full Bench of this court in paragraph 20 of the judgement passed in CWJC No. 613 of 1968 (Bibi Sayeeda v. State of Bihar & Ors) has clearly stated that the shops situated in Meena Bazar was constructed after vesting of Zamindari and the same is part and parcel of homestead land of landlord and that portion of Meena Bazar is not vested in the State of Bihar vide order passed in Misc. case No. 1/1968-69. Thereafter, the Collector demarcated the lands and the shops of Patna Market and submitted report that the Patna Market consists of 132 shops, total area of ground floor of which comes to 25802 sq. feet. Therefore, without going into the facts that Patna Market does not consist of more than 132 shops and godown measuring an area of 25802 sq. feet (ground floor) and shops even standing on plot No. 262 (part) but known as Meena Bazar can not be deemed to be vested in State of Bihar as held by the Full Bench in the case of Bibi Sayeeda v. State of Bihar (supra) the Collector has illegally ordered that part of Meena Bazar, which is portion of plot No. 262, stood vested in the State of Bihar. The Chairman has rightly set aside the order of the Collector.

Accordingly, I do not find any merit in these writ petitions and the same are accordingly, dismissed.

(Prabhat Kumar Jha, J)

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