

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6366 of 2016

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Seema Pandey, wife of Sri Birendra Pandey, resident of Mohalla- Ambika Nagar,
P.S.- Motihari Town, District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development, Govt. of Bihar, Patna.
2. Zila Parishad, East Champaran through its Chief Executive Officer, Motihari, District-East Champaran.
3. The Chief Executive Officer cum Deputy Development Commissioner, Zila Parishad, East Champaran at Motihari, District- East Champaran.
4. The Manager, Bihar State Beverage Corporation, at Motihari.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan No.1, Advocate

For the Respondent/s : Mr. Din Bandhu Singh, GP-9

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-07-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This writ petition has been filed by the petitioner
for quashing the order dated 30.01.2016 as contained in
Annexure-4 to the writ petition whereby and whereunder the shop
no.53 situated at Gandhi Complex, Motihari allotted in favour of the



petitioner was cancelled by the respondent no.3. He has also prayed to stay the order dated 05.03.2016 passed by the Deputy Development Commissioner-cum-Chief Executive Officer, District Board, East Champaran as contained in Annexure-5 whereby she was asked to vacate the shop within three days failing which, her shop would be vacated with aid of full police.

3. Vide *ad interim* order dated 07.04.2016, while adjourning the case in order to enable learned counsel for the Zila Parishad to file counter affidavit, this Court had stayed the operation of the aforesaid orders dated 30.01.2016 and 05.03.2016.

4. It is admitted by the learned counsel for the petitioner that prior to 07.04.2016, the impugned orders dated 30.01.2016 and 05.03.2016 had already taken their effect and the District Board had taken over the possession of the shop in question after the same was vacated by the petitioner.

5. It is brought to the notice of the Court by the learned counsel for the respondent-State by way of filing the counter affidavit that after the District Board took over the possession of the shop in question, the same was allotted in favour of the Depot Manager, Bihar State Beverage Corporation, Motihari under an agreement dated 08.03.2016. He has also drawn my attention towards the statements made in the counter affidavit that



though the shop in question was allotted to the petitioner in October, 2002 and the petitioner was liable to pay the rent amount in each month, but he never deposited rent after 2002. Though the petitioner has denied the claim of the respondents in part, she has admitted that after September 2009, she failed to deposit the rent. Learned counsel for the petitioner submitted that subsequently pursuant to the undertaking given to this Court, as recorded in the order dated 07.04.2016, the petitioner handed over two demand drafts, one for Rs. 43,600/- and the other for Rs. 720/- in favour of the District Board, Motihari, East Champaran to the counsel appearing for the Zila Parishad. The said payment was made against the arrear of rent.

6. Learned counsel appearing for the respondent-Zila Parishad submitted that though the demand drafts were handed over to the then counsel appearing for the Motihari Zila Parishad, inadvertently, the same remained in the file and with the change of counsel while handing over the file to the present counsel, the drafts were also handed over to him. Since the demand drafts were not deposited in the account within six months, they have become invalid. He submitted that he may be permitted to return the same to the counsel for the petitioner so that he may re-validate the demand draft and remit it to the account of the District Board, Motihari.

7. Learned counsel for the petitioner has agreed to the



proposal of the learned counsel for the District Board. The demand drafts have been handed over by the counsel for the District Board to the counsel for the petitioner, who has acknowledged their receipt. The petitioner is expected to get those drafts revalidated and deposit them with the District Board within a reasonable time.

8. Keeping in mind the nature of dispute raised by the petitioner, since she was admittedly a defaulter in payment of rent for a period of about seven years and the order passed by the competent authority to vacate the premises on the ground of default in payment of rent has already taken its effect, I am of the considered opinion that no relief can be granted to the petitioner in extraordinary writ jurisdiction.

9. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/Sneha-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2018
Transmission Date	NA

