

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3575 of 2019

Abha Kumari, Wife of Sri Vijay Kumar Resident of Sidheshwar Nagar, House No. 206 Mainpura, P.O.- Sadakat Ashram, District- Patna, At present at Chankya Nagar, P.S. Agamkuan, P.O.- Lohiyangar, District- Patna.

... .. Petitioner/s

Versus

1. The Additional Commissioner, Patna Municipal Corporation, Patna
2. The Executive Officer Kankarbagh Anchal Patna Municipal Corporation, Patna.
3. Smt. Archana W/o Shri Indrajeet Kumar Patel Resident of C. Barai Heera Bagh Chowk, Matwari R.D., In front of Om Complex, P.S.- Sadar Hajaribagh At present Clerk, Establishment Hajaribagh Collectriate, Hajaribagh (Jharkhand).
4. Smt. Asha Kumari W/o Rajesh Kumar Resident of Village- Balwaspur, P.O.- Chakboy, P.S.- Warsaliganj, District- Nawada- 805130.
5. Archana Kumari Wife of Permanand Prasad Resident of Village- Shamtaad, P.S. Rahui, District- Nalanda.
6. Smt. Shashi Kumari Wife of Satendra Kumar Resident of Village- Panchi, P.S. Shekhpura Sarai, District- Shekhpura- 811103.
7. Smt. Nidhi Kumari Wife of Ajay Kumar Resident of Village- Nerut, P.S. Sare, District- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dilip Kumar Tondon Mr. Prateek Tondon
For the Respondent/s	:	Mr. Prasoon Sinha

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 26-02-2019 Impugned is an order dated 19.11.2018 passed by the Additional Commissioner, Patna Municipal Corporation, Patna, in Appeal Case No. 04 of 2013, which was preferred by the respondent no. 3. By the said impugned order, the Additional Commissioner, Patna Municipal Corporation, Patna, has set aside the orders dated 27.08.2008 and 17.11.2009 passed by the



Executive Officer of Kankarbagh Circle and has ordered for mutating the name of respondent no. 3, after deleting the name of the petitioner.

Learned counsel, appearing on behalf of the petitioner, has submitted that the petitioner is not only in possession over the disputed property but he has been regularly paying municipal rent too. He has also submitted that during the pendency of a title suit in respect of the same land, vide Title Suit No. 04/2009, the Additional Commissioner, Patna Municipal Corporation, Patna, ought to have restrained himself from passing any order. He has also argued that the impugned order is beyond the jurisdiction.

Mr. Prasoon Sinha, learned counsel representing the Patna Municipal Corporation, on the other hand, has submitted that there is no illegality in the order impugned, inasmuch as the Additional Commissioner, Patna Municipal Corporation, Patna, has kept in mind the fact that the title suit is pending and has, accordingly, observed in the impugned order that his decision dated 19.11.2018, shall be governed by any decision of the civil court in Title Suit No. 04/2009.

I have failed to understand how the impugned order dated 19.11.2018 is prejudicing the petitioner's interest, at this



stage.

It is the petitioner's case that she is in possession over the disputed land and regularly paying the municipal rent.

It is manifest that the impugned order dated 19.11.2018 is dependent upon the outcome of Title Suit No. 04 of 2009. In such circumstance, I do not consider any requirement of interfering with the impugned order, on any ground. The only observation which I intend to make for the present is that no finding recorded by the Additional Commissioner, Patna Municipal Corporation, Patna, in the order dated 19.11.2018, shall prejudice the case of the parties before the civil court in Title Suit No. 04 of 2009, which is to be decided on its own merit.

This application stands disposed of.

(Chakradhari Sharan Singh, J)

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