

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5267 of 2018**

=====

Sunil Kumar Gupta, Son of Raghunandan Modi, Resident of Village-  
Ujhandi, P.S.- Jamui, District- Jamui.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, Patna.
2. The Urban Development Commissioner Bihar, Patna.
3. The District Magistrate, Jamui.
4. The Sub-Divisional Magistrate, Jamui.
5. The Zila Parishad Jamui through its Chairman.
6. The Deputy Development Commissioner cum Chief Executive Officer Zila Parishad Jamui.
7. The Executive Magistrate cum Executive Officer, Nagar Parishad Jamui.
8. Sri Jai Prakash Sao, Son of Naresh Sao, Resident of Purani Bazar Jamui, P.S.- Jamui, District- Jamui.

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                          |
|----------------------|---|------------------------------------------|
| For the Petitioner/s | : | Mr.Bharat Lal,Adv.                       |
|                      |   | Mr. Rabindra Kumar, Adv.                 |
| For the Respondent/s | : | Mr. Indeshwari Prasad Mandal, AC to GA-3 |

=====

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      13-03-2019                      Heard learned counsel for the petitioner and learned  
counsel for the State.

Petitioner, in the present case, claims that he had entered into the shop in question which belongs to the Zila Parishad, Jamui through one Jai Prakash Sao who was the original allottee of the said shop.

Learned counsel for the petitioner has drawn the attention of this Court towards the rent agreement executed by



Zila Parishad, Jamui with said Jai Prakash Sao as contained in Annexure-P-1. It is submitted that admittedly under clause 2 of the said agreement, the said Jai Prakash Sao, who was the original allottee, could not have rented out the shop premises to the petitioner or anybody else. Violation of this condition would result in cancellation of the allotment, but then the contention of learned counsel for the petitioner is that it is a wrong committed by the original allottee and not by this petitioner. It is submitted that the petitioner is paying rent to the original allottee of the shop and is in possession through him for last about 15 years. Learned counsel submits that in such circumstance when the notice as contained in Annexure-P-3/1 was received by him and he found that the Zila Parishad had enhanced the rent by 15% with effect from 01.09.2013 and then again with effect from 01.09.2016, he has represented to the Zila Parishad vide Annexure-P-4 for transfer of the allotment of shop in his name.

In the aforesaid circumstance as it appears from the records that vide Annexure-5 the Sub-Divisional Officer, Jamui has called upon the petitioner with evidence to explain as regards the complaint of unauthorized occupation of the shop premises by him.

Learned counsel for the petitioner submits that



because the petitioner is occupying the shop premises for last 15 years, this Court should direct the respondent concerned not to take any step for vacating of the shop premises and eviction of the petitioner from possession thereof. A prayer has also been made for a direction to the respondent nos.5 and 6 to allot the shop no.54 of Zila Parishad, Jamui in favour of the petitioner.

This Court is afraid the nature of the reliefs prayed for in the writ application cannot be granted sitting under Article 226 of the Constitution of India. Admittedly, the petitioner has entered into the premises of the Zila Parishad in complete contravention of clause 2 of the rent agreement and Zila Parishad has initiated action against him for his unauthorized possession of the shop. No interference with the action initiated by Zila Parishad is required by this Court. The prayer is totally misconceived and is rejected. Similarly, the second prayer of the petitioner for a direction to the respondent nos.5 and 6 to allot the shop in question in his favour is totally misconceived.

This Court sitting in its writ jurisdiction cannot call upon one of the parties who is the owner of the shop to allot a particular shop in favour of a particular person. Any such exercise if undertaken by this Court would be contrary to the established proposition of law on this behalf.



This writ application is totally misconceived and is,  
accordingly, dismissed.

**(Rajeev Ranjan Prasad, J)**

arvind/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

