

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4732 of 2019

1. Prithwi Chandra Jaiswal and Ors Son of Sri Laxmi Prasad Resident of Village- Bagahi, P.S.- Bairiya, District- West Champaran
2. Rakesh Kumar Mahto Son of Sri Kishore Mahto Resident of Arya Samaj Road, P.S.- Bettiah Town, District- West Champaran
3. Md. Fareed Son of Sarabe Alam Resident of Mahawat Toli, P.S.- Bettiah Town, District- West Champaran
4. Raju Hussain Son of Navi Ullah Resident of Village- Baswariya, Ward No.30, P.S.- Bettiah Town, District- West Champaran
5. Bharat Kumar Son of Baidnath Prasad Resident of Illam Ram Chowk, Ganj No.2, P.S.- Bettiah Town, District- West Champaran
6. Raju Kumar Son of Kishor Mahto Resident of Arya Samaj Road, P.S.- Bettiah Town, District- West Champaran
7. Kailash Pandit Son of Paras Pandit Resident of Karghiya, P.S.- Kalibagh O.P., District- West Champaran
8. Brij Kishore Prasad Son of Late Kapil Deo Prasad Resident of Ladu Ram Gola, Ganj No.2, P.S.- Bettiah Town, District- West Champaran
9. Laxman Prasad Son of Late Heera Lal Sah Resident of Purani Gudari, P.S.- Kalibagh (O.P.), District- West Champaran
10. Md. Kamran Son of Md. Kalam Resident of Hospital Road, Ward No.26, P.S.- Bettiah Town, District- West Champaran
11. Manohar Prasad Son of Vachan Prasad Resident of Santghat, New Colony, P.S.- Bairiya, District- West Champaran
12. Sonu Kumar Son of Brijesh Prasad Resident of Killa Mohalla, P.S.- Bettiah Town, District- West Champaran
13. Rajendra Kumar Prasad Son of Satyanarayan Prasad Gupta Resident of Kalibagh, Ghusukpur, P.S.- Kalibagh O.P., District- West Champaran
14. Govind Bhagat Son of Chhathu Bhagat Resident of Turaha Toli, P.S.- Kalibagh (O.P.), District- West Champaran
15. Kanhaiya Prasad Son of Baidnath Prasad Resident of Illa Ram Chowk, P.S.- Bettiah Town, District- West Champaran
16. Lal Babu Prasad Son of Sri Sah Resident of Killa Mohalla, P.S.- Bettiah Town, District- West Champaran
17. Abhishek Kumar Son of Late Gauri Sah Resident of Purani Gudri, P.S.- Bettiah Town, District- West Champaran
18. Md. Faruque Zilani Son of Md. Nezam Resident of Hospital Road, P.S.- Bettiah Town, District- West Champaran
19. Dheeraj Bhagat Son of Chhathu Bhagat Resident of Turaha Toli, P.S.- Kalibagh, District- West Champaran
20. Mohammad Samsuddin Son of Late Full Mohammad Resident of Hospital Road, P.S.- Bettiah Town, District- West Champaran



21. Deepak Kumar Son of Nageshwar Prasad Resident of Bagahi Gyani Tola, P.S.- Bairiya, District- West Champaran
22. Anjali Devi Wife of Deepak Kumar Resident of Bagahi Gyani Tola, P.S.- Bairiya, District- West Champaran
23. Abhijit Prasad Son of Laxmi Prasad Resident of Bagahi Gyani Tola, P.S.- Bairiya, District- West Champaran
24. Ahmad Jafar Son of Murtuja Resident of Masjid Mohalla, P.S.- Bettiah Town, District- West Champaran
25. Raj Kumar Mahto Son of Late Prem Chandra Resident of Basantpur, P.S.- Muzaffarpur, District- Muzaffarpur
26. Manoj Kumar Son of Kishore Mahto Resident of Arya Samaj Road, P.S.- Bettiah Town, District- West Champaran
27. Birendra Prasad Son of Shrawan Prasad Resident of Lal Bazar, P.S.- Bettiah Town, District- West Champaran
28. Amod Kumar Choorsiya Son of Nagendra Prasad Resident of Village-Baswariya, P.S.- Bettiah Town, District- West Champaran
29. Imtiyaj Khan Son of Nasir Khan Resident of Baswariya, P.S.- Bettiah Town, District- West Champaran
30. Om Prakash Chaurasiya Son of Sudarshan Prasad Chourasiya Resident of Indrapuri Colony, P.S.- Bettiah Town, District- West Champaran
31. Sanni Kumar Son of Birendra Prasad Resident of Lal Bazar, P.S.- Bettiah Town, District- West Champaran
32. Nashir Khan Son of Bhuawali Khan Resident of Baswaria, Ward No.28, P.S.- Bettiah Town, District- West Champaran
33. Md. Raja Son of Badrun Hassan Resident of Baswaria, P.S.- Bettiah Town, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna
2. The District Magistrate, West Champaran at Bettiah
3. The Nagar Parishad, Bettiah through its Executive Officer, Bettiah, West Champaran
4. The Executive Officer, Nagar Parishad, Bettiah, West Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Gupta
For the Respondent/s : Mr.Ranjay Kumar Singh, AC to SC-6

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER



2 05-04-2019 Heard learned counsel for the petitioners and learned counsel representing the State.

In the nature of the order proposed to be passed in the present case the parties agree that no counter affidavit is required to be invited.

Petitioners in this case are seeking quashing of the settlement notice 2019-20 bearing memo no.05/2018-19 issued under the signature of the respondent no.3 to the extent of item no.22 which relates to settlement of Footpath adjacent to boundary of Maharaja Pustakalay situated at Sowa Babu Chowk, Bettiah for parking of cycle, motorcycle and other vehicles.

It is the case of the petitioners that they are registered vendors having their footpath shop adjacent to southern boundary of Maharaja Pustakalay of different items and they are earning their livelihood. They are claiming their right to be protected by virtue of Chapter-VI sub-section 19 of Section 8 of the Bihar Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017 wherein it is provided that no vendor shall be evicted without notice and such eviction may be undertaken only after giving an alternative place of business by providing vending zones to be identified



under the scheme.

Learned counsel for the petitioners submits that Annexure-1 is a sample copy of identity card of the footpath vendor. It shows that one Rakesh Kumar Mahto (petitioner no.2) is having a Shringar Store in ward no.24 within the Nagar Parishad, Bettiah. The similar identity cards have been issued to all the petitioners.

Learned counsel has drawn the attention of this Court towards Annexure-‘7’ to the writ application showing the settlement notice issued by Nagar Parishad, Bettiah wherein item no.22 shows that the settlement has to take place in respect of the area falling in front of the Maharaja Pustakalay situated at Sowa Babu Chowk for parking of cycle, motorcycle and other vehicles.

Learned counsel representing the State however submits that neither from the pleadings in the writ application nor from Annexure-‘7’ to the writ application it would appear that settlement has to take place in respect of the land on which the shops of these petitioners are situated. It is further pointed out from Annexure-‘9’ to the writ application that in their representation to the Executive Officer, Nagar Parishad, Bettiah those who have signed the Annexure-9 had nowhere stated that



their shops are being disturbed and that the parking is being developed on the same piece of land on which their shops are existing. It is submitted that the petitioners have no legal right to continue to occupy the area adjacent to the Maharaja Pustakalay, therefore, their filing of the writ application calling upon this Court to quash the settlement notice is misconceived.

Although it appears that the name of the learned advocate of Nagar Parishad, Bettiah appears in the cause list, but no one appears on behalf of the Nagar Parishad, Bettiah.

Having heard learned counsel for the parties, this Court is of the considered opinion that these petitioners are not able to demonstrate any legal right before this Court to seek any protection with respect to their continued occupation of the areas falling adjacent to the boundary of Maharaja Pustkalay. The Court also takes a view that at the instance of the petitioner the settlement notice with respect to the area in front of the Maharaja Pustakalay for purpose of parking of cycle, motorcycle and other vehicles cannot be interfered with. To that extent the prayer made in the writ application is totally misconceived and this Court would refuse to exercise its power under Article 226 of the Constitution of India to interfere with the ongoing process of settlement.



Having said so, since the learned counsel for the petitioners made statement on the strength of Annexure-2 to the writ application that all the petitioners are registered vendors who have got their shops adjacent to the Maharaja Pustkalay and shops are being disturbed, in the opinion of this Court, the petitioners would be at liberty to bring it to the notice of the Executive Officer, Nagar Parishad, Bettiah who will look into the request of the petitioners and shall take a decision in accordance with law.

With the aforesaid observations and directions, the writ application is disposed off.

(Rajeev Ranjan Prasad, J)

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