

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13829 of 2015

=====

Rajesh Kumar, S/o SRi K.D. Narayan, R/o Mohalla - Sheela Place, New
Patliputra Colony, P.S. Patliputra, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Deptt. Of Urban Development, Bihar, Patna.
2. Commissioner, Patna Municipal Corporation, Maurya Complex, Patna
3. The Estate Officer, Commissioner, Patna Municipal Corporation, Maurya Complex, Patna
4. Dilip Kumar Singh S/o Late Awadh Bihari Singh R/o Sri Krishnapuri, P.S. Sri Krishnapuri, District - Patna

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Srivastva, Adv.
For the Respondent/s : Mr.Sanjay Prakash Verma, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 25-04-2019 Learned counsel representing the petitioner as well as

learned counsel representing the Patna Municipal Corporation

are present.

It is jointly submitted that this case would be covered
by a judgment of this Court in the case of Sanjay Singh Vs. The
State of Bihar reported in 2015(2) PLJR 58 which has been
affirmed in the Letters Patent Appeal bearing No.512 of 2016
and the Special Leave to Appeal © No(s).12463 of 2018.

This writ application has been filed for issuance of a
writ of certiorari to quash the communication dated 25.06.2011
contained in memo no.2584 dated 02.07.2011 (Annexure-5)



issued by the Estate Officer, Patna Municipal Corporation by which he had called upon the petitioner to deposit 50% of the profit amount on the transfer of the land in the name of one Rajesh Kumar in respect of plot no.135/D in Sri Krishnapuri, Patna which was originally allotted in the name of late Awadh Bihari Singh.

It is submitted that during the pendency of this writ application, the Estate Officer, Patna Municipal Corporation again issued memo no.6676 dated 09.09.2015 by which the petitioner was called upon to show cause as to why action for cancellation of allotment of plot be not taken for unauthorized sale of the plot and unauthorized commercial use of the land. The petitioner has challenged the communication dated 09.09.2015 by filing I.A. No.7904 of 2015.

There is no objection to the I.A. No.7904 of 2015 for purpose of amendment to the writ application.

Thus, I.A. No.7904 of 2015 is allowed.

Learned counsel for the Patna Municipal Corporation submits that so far as the communication dated 09.09.2015 is concerned, apart from the fact that it contains a recital about unauthorized sale of the land, there is another aspect wherein it talks of commercial use of the property and to that extent the



petitioner may satisfy the Municipal Corporation that the plot in question is not being used for commercial purposes.

In view of the statements made at the bar, this Court would quash the memo no.2584 dated 02.07.2011 (Annexure-5), the same is hereby quashed. The Patna Municipal Corporation shall not insist for payment of 50% of the profit amount on the sale of the land in question. Further no action for cancellation of allotment may be taken only on the ground that the plot in question has been sold in favour of the petitioner. To that extent, the case is covered by the judgment of this Court in the case of Sanjay Singh (supra).

The Patna Municipal Corporation is, therefore, directed to take steps to record the name of the petitioner as a lessee of the plot no.135 Type 'D', Sri Krishnapuri, Patna in the name of the petitioner within 60 days from the date of receipt/production of a copy of this order.

So far as the question of commercial use of the plot in question is concerned, it will be open to the Municipal Corporation to get satisfied with the explanation of the petitioner and for that purpose the petitioner would submit his explanation as contained in Annexure-6 to the writ application (it should be Annexure-7). To that extent, the notice which has



been sought to be challenged with the I.A. will be required to be answered by the petitioner and the Municipal Corporation shall take an independent and lawful decision thereon.

The writ application stands disposed off, accordingly.

(Rajeev Ranjan Prasad, J)

arvind/-

U			
---	--	--	--

