

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10601 of 2013

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1. Hemlata Malviya, W/O Anil Kumar Malviya
 2. Anil Kumar Malviya, S/O Sri Ram Nadan Malviya
Both R/O Rajauli, P.S. Rajauli, District Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Deputy Development Commissioner, Nawada.
3. The Sub Division Officer Rajauli At Nawada.
4. The Block Development Officer, Rajauli At Nawada.
5. The Manager Cum Block Co-Operative Officer Rajauli, District Nawada.
6. The Chairman, Vayapar Mandal Sahyog Samittee Ltd., Rajauli, District Nawada.
7. Dhananjay Singh S/o Sri Krishna Sah R/o Village- Chapra, P.S. Rajauli, Distt. Nawada.

... .. Respondent/s

with

Miscellaneous Jurisdiction Case No. 63 of 2019

Suo Moto Contempt Proceeding Initiated Vide Honble Courts Order Dated
03.01.2019 Passed In C W J C No.10601 of 2013

... .. Petitioner/s

Versus

Hemlata Malviya and Anr

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 10601 of 2013)

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.

Mr.Satyendra Prasad Singh, Adv.

For the State : Mr. Shankar Kumar Thakur, AC to GP-27

Mr. Mukund Mohan Jha, AC to GP-27

For the Respondent no.5: Mr. Hari Mohan Mishra, Adv.

(In Miscellaneous Jurisdiction Case No. 63 of 2019)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.



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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

17 16-01-2019

CWJC No.10601 of 2013

Heard learned counsel for the petitioners and learned counsel representing the State.

At the outset, when the matter was called out, learned counsel representing the petitioners as well as the State submit that now the petitioners have already vacated the premises in question. The only issue which has remained pending for consideration at this stage is about the legality and validity of the order dated 22.04.2013 passed by the Block Development Officer, Rajauli, Nawada in Case No.1347 of 2013.

Learned counsel representing the petitioners submits that the petitioners were running a school in the premises of the Vyapar Mandal by virtue of an agreement and on payment of certain amount of rent to the Vyapar Mandal. It is the case of the petitioners that they had been paying rent @ 250/- per month and at lastly paid rent to the Vyapar Mandal on 29.01.2010. It is stated in paragraph 12 and 13 of the writ application that a sum of Rs.6750/- was paid for the period 2003 to 2005 and then the petitioners paid rent amount of Rs.20,250/- which was outstanding for the period April, 2003 to December, 2009, on 29.01.2010. Learned counsel submits that the fact that the



petitioners were running the school in premises for last 20 years and at no stage prior to issuance of notice dated 19.12.2012 by the present Block Development Officer, Rajauli the possession of the petitioners over the premise in question was questioned by the Vyapar Mandal is an indication of a kind of relationship which the petitioners enjoyed with Vyapar Mandal by virtue of an agreement.

It is further submitted that the allegation at this stage that the petitioners had forged the rent agreement or affidavit and/or utilized the premises illegally and earned income out of that are all afterthoughts and were levelled against the petitioners only as a pretext to get the premises vacated. It is further submitted that in any case the Block Development Officer, Rajauli had no authority to assess damages and reach to a conclusion that the petitioners would be liable to pay a sum of Rs.50 lakhs as compensation/damages to the Vyapar Mandal. It is pointed out from the impugned order that in one paragraph of the order, the Block Development Officer has recorded that because the petitioners have earned income from the premises and the trees present there, they have caused damage of Rs.50 lakhs. Learned counsel submits that there is no basis for reaching to such a conclusion.



Learned counsel representing the State has though contested the issue with the learned counsel representing the petitioners, but on the question of the authority of the Block Development Officer to levy damages, learned counsel has fairly accepted that the Block Development Officer on his own could not have assessed and imposed damages upon the petitioners. Learned counsel submits that if at all any damages were to be recovered from the petitioners, the Vyapar Mandal had a recourse available by filing an appropriate suit for recovery before the Civil Court of competent jurisdiction.

In the facts and circumstances of the case, after hearing learned counsel for the parties and taking note of their submissions, this Court is of the considered opinion that the Block Development Officer, Rajauli, Nawada has usurped upon himself a jurisdiction which is not vested in him. He was not the competent authority, forum or the court to assess the damages and to call upon the petitioners to pay a sum of Rs.50 lakhs on mere certain assumptions. The impugned order is, thus, bad in law and is liable to be set aside. It is set aside accordingly. The Vyapar Mandal will have, however, an opportunity to bring an appropriate proceeding, if so desired or advised, to claim damages against the petitioners. All questions are left open for



the parties.

M.J.C. No.63 of 2019

In view of the order passed today in CWJC No.10601
of 2013, the contempt proceeding is dropped.

(Rajeev Ranjan Prasad, J)

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