

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20706 of 2019

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Sumit Kumar, Son of Late Anil Kumar Raut, resident of Jagjivan Nagar, Ward No. 27, P.S.- Bettiah, Town- Bettiah, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Commissioner, West Champaran Division. West Champaran.
3. The District Magistrate, Bettiah, Bihar.
4. The Municipal Commissioner, Bettiah, Municipal Corporation, Bettiah.
5. The Zila Parishad through its Chairman, Bettiah.
6. The Executive Officer, Nagar Parishad, Bettiah.
7. The Circle Officer, Bettiah.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sanjiv Sharan

For the Respondent/s : Mr.Raj Kishore Roy (Gp18)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 26-11-2019 It is the petitioner's case that under an agreement between him and Nagar Parishad, Bettiah, land appertaining to Khesra No. 8300/8293, admeasuring 500 square feet, at Bettiah, in Ward No.27, had been allotted to him on 02.08.2013 for the purpose of running business.

According to him, he made construction of a shop over the land in question and is running his business and paying the rent, as agreed, regularly without any break. He has a grievance that the Nagar Parishad has marked the said shop premises for demolition on the ground of encroachment, though the petitioner has not made any encroachment. The petitioner



has approached the Executive officer, Nagar Parishad, Bettiah, with his documents to establish his bonafide and his right to continue over the land in question for the said business purpose, in terms of the agreement.

It transpires from the averments made in paragraph 12 of the writ application that the Nagar Parishad, Bettiah, has issued an office order on 20.08.2019 to the Amins under the Parishad to clear drains after taking measurements. It is the petitioner's case that his shop does not come within the purview of the said office order dated 20.08.2019 nor there is any encroachment made by the petitioner.

Section 323 of the Bihar Municipal Act, 2007, empowers the authorities under the Act to demolish a construction made contrary to the provisions of the Act or the Rules or the Regulations made thereunder. Sub-section (1) of Section 323 mandates that no order of demolition can be made unless such person has been given, by means of notice, an opportunity to showing cause as to why such order shall not be made.

It goes without saying that the authorities are bound by the provisions of law and while taking any action they will keep in mind the statutory provisions including the said proviso



to sub-Section (1) of Section 323 of the Act.

This application stands disposed of with the observations as above.

(Chakradhari Sharan Singh, J)

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