

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 25782 of 2019

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Saroj Kumar (Male-aged about 58 years) Son of Late Kapildeo Prasad,
Resident of Kadamkuan, Park Road, P.S. Kadamkuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Urban Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Department of Urban Development Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
4. The Commissioner, Patna Commissioner, Patna.
5. The District Magistrate, Patna.
6. The Circle Officer, Patna Sadar, Patna.
7. The District Magistrate, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar Verma, Mr. Lalan Kumar and Ms. Kalpana, Advocates
For the State	:	Mr. Kinker Kumar, SC 9 Mr. Zadi Haider, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 03-03-2020

Heard learned counsel for the petitioner and learned SC

9 for the State.

2. The petitioner had initially moved the Court for the following reliefs:

“(i) In the nature of certiorari for setting aside the Memo no. X-210/07-2754 dated 9/12/2019 issued under the signature of District Magistrate, Patna whereby and whereunder the structure situated at Kadamkuan Khas Mahal Block-E, Plot



no. 11, admeasuring 4 katha land has been directed to be confiscated and further also to quash the consequential notice dated 16/12/2019 issued on the name of Smt. Daulati Devi who is mother of the petitioner under the signature of Circle Officer, Patna Sadar, Patna whereby and whereunder a direction has been made to vacate the premises by 18/12/2019 failing which forceful eviction shall be made.

(ii) For any other relief/reliefs for which the petitioner is entitled in the facts and circumstances of the instant case.”

3. However, by filing Interlocutory Application No. 1 of 2020, amendment is sought to challenge order dated 18.10.2016 passed by the Divisional Commissioner, Patna in Case No. Others-24-2016.

4. The entire controversy arises with regard to the Khas Mahal Property which was initially settled on perpetual lease in favour of one Shyam Narayan Lal in the year 1927, who later sold it in favour of Daulti Devi, mother of the petitioner, under two transactions in the year 1965 and 1972. By order dated 22.02.2008, the Revenue and Land Reforms Department, Government of Bihar, accepting the proposal of the Collector, Patna cancelled the lease in favour of Daulti Devi and also took a decision to take possession of the same. The challenge in the present writ application to the subsequent developments by which notice was given for vacating the premises and also direction was given for forcible take over of possession, pursuant to the decision of the



Commissioner, Patna Division directing for such eviction under the New Khas Mahal Policy, 2011.

5. The Court would only observe that till the time, the cancellation of the lease in favour of the mother of the petitioner, who at the relevant time was alive, as she is said to have passed away on 04.08.2008 remains, the authorities cannot be faulted for taking steps for resuming possession.

6. Learned counsel for the State, at this juncture, informed the Court that the order of cancellation of lease dated 22.02.2008 was assailed by the petitioner in CWJC No. 1110 of 2009, which stood dismissed for default on 29.08.2013 and till date, the same has not been restored, though an application for restoring the same is pending consideration in MJC No. 5264 of 2019.

7. Having regard to the aforesaid, the Court finds that till the time the cancellation order is not interfered with, no relief, as sought for in the present writ application can be granted to the petitioner. The Court would further observe that the present relief can be treated as consequential to the relief in the other writ application, but without interference in the order of cancellation of the lease deed in favour of the mother of the petitioner, at the point when she was alive, the reliefs cannot be granted.



8. Accordingly, the writ petition stands disposed off with liberty to the petitioner to take appropriate steps, in accordance with law, before the appropriate forum.

9. In view of the order passed, Interlocutory Application No. 1 of 2020 stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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