

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13717 of 2002

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1. Braj Raj Kishor, Son of Late Ramji Prasad Verma, Resident of Mohalla Kadamkuan, Plot No. 14, Blcok H, P.S. Kadamkuan, District-Patna.
 2. Ashok Kumar Sinha, Son of Late Ramji Prasad Verma, Resident of Mohalla Kadamkuan, Plot No. 14, Blcok H, P.S. Kadamkuan, District-Patna.
 3. Raj Kishor, Son of Late Ramji Prasad Verma, Resident of Mohalla Kadamkuan, Plot No. 14, Blcok H, P.S. Kadamkuan, District-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Commissioner, Revenue & Land Reforms Department, Government of Bihar, Patna.
2. The Commissioner, Revenue & Land Reforms Department, Government of Bihar, Old Secretariat, Patna.
3. The Deputy Secretary, Revenue & Land Reforms Department, Government of Bihar, Old Secretariat, Patna.
4. The Collector, Patna.
5. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Sinha
For the Respondent/s : Mr.Gp2

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 02-12-2021 The above mentioned writ petition has been filed
praying inter-alia following reliefs:

*This is an application, praying for
issuance of an appropriate writ/order,
quashing the order dated 18.11.2002
contained in Memo No. 2198/Ra (Annexure
'3'), issued by the Collector, Patna
(respondent no. 4), purported to have been
issued pursuant to the Letter No. 730/Ra dated
12.04.2001, issued by the Revenue & Land
Reforms Department, Government of Bihar,
Patna, whereby the lease dated 23.02.1936 of
Khas Mahal Plot No. 14, Block H within the*



township of Patna having an area of 2 Kathas 3.2 dhurs land has been cancelled and the petitioner has been directed to hand over the possession of the same along with construction thereon to the Circle Officer, Patna Sadar (respondent no. 5) within a period of one month from the receipt of the said order (Annexure '3'). The petitioners pray for quashing of the letter No. 730/Ra dated 12.04.2001, issued by the Revenue and Land Reforms Department, Government of Bihar (Copy of which has not been supplied to the petitioner) referred in the letter dated 18.11.2002 (Annexure '3') and, further, for issuance of a writ in the nature of writ of mandamus, restraining the respondents from giving effect of the orders impugned till the disposal of this writ application.

This Court finds that with same relief as what has been made in the present writ petition a batch of writ petitions has been disposed of by this Court vide order dated 24.03.2021 passed in CWJC No. 9720 of 2001 along with other analogous cases in light of the judgment reported in **2021(1) BLJ 5 (Shri Sanjay Singh vs. Patna Municipal Corporation)**, and judgment reported in **2016(1) PLJR 277 (Khas Mahal Citizen Welfare Society vs. The State of Bihar & Ors.)** which has recently been upheld by the Apex Court and is reported in **2019(1) PLJR 628 (SC)** has been pleased to hold that merely by an administrative/executive



order, the lease deeds in question can neither be cancelled nor possession of the land/plot/structure in question can be resumed unilaterally and the respondents are required to take recourse to the due process of law i.e. invoking the jurisdiction of the competent civil Court by filing appropriate suit and not otherwise and in this regard this Court has relied upon a judgment of the Apex Court in the case of **Express Newspaper Private Limited vs. Union of India**, reported in **AIR 1986 SC 872** as also contrary to the law laid down by this Court in a judgment reported in **1995(1) PLJR 585 (Gait Public Library & Institute vs. State of Bihar)** *inter-alia* passed following order:-

“After consideration of the entire facts and position of law, this Court *inter-alia* in the above mentioned writ petition passed *inter-alia* following order:

Having regard to the facts and circumstances of the case as also considering the submissions made by the learned counsel for the parties, the aforesaid batch of writ petitions are being disposed off with the consent of the parties in view of the law laid down by this Court in the case of Sanjay Singh (supra) as also in the case of Khas Mahal Citizen Welfare Society. Accordingly, the impugned letters/orders issued/passed by the Collector, Patna in all the aforesaid writ



petitions, whereby and whereunder the lease deeds in question have been cancelled and a direction has been issued for resumption of the possession of the land/plot/structure in question, being contrary to the law laid down by this Court as also by the Hon'ble Apex Court, is held to be unsustainable in the eyes of law, hence are quashed. The writ petitions stand allowed."

Learned counsel appearing on behalf of the petitioners submits that in the present case also merely by an administrative/executive order, the District Magistrate has cancelled the lease deed in question and directed for the resumption of the possession of the plot land structure in question which is contrary to the law laid down by the Hon'ble Apex Court

Having perused the writ petition and the order under the challenge, I have come to the considered opinion that the present writ petition is squarely covered by the judgment of this Court passed in CWJC No. 9720 of 2001. In the light of aforesaid judgment and direction, the impugned order dated 18.11.2002 contained in Memo No. 2198/Ra (Annexure '3') passed by the collector, Patna in purported compliance of letter no. 730/Ra dated 12.04.2001 issued by the Revenue and Land Reforms Department, Government of Bihar, Patna, whereby the lease dated 23.02.1936 of *Khas Mahal* Plot No.14, Block H within township of Patna



having an area of 2 *Kathas* 3.2 *dhurs* land has been cancelled and by which it has further been directed to hand over the possession of the same along with construction thereon to the Circle Officer, Patna Sadar within a period of one month is not sustainable in the eye of law is hereby quashed and any other further action taken by the respondents is vitiated in the eye of law.

In light of the order passed in CWJC No. 9720 of 2001, the present writ petition stands allowed.

(Purnendu Singh, J)

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