

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.431 of 2021

In

Civil Writ Jurisdiction Case No.8436 of 2020

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Mohammed Sarfaraz Khan @ Md. Safaraz, aged about 55 years, male, son of
Late Seraj Uddin Khan, Resident of Mohalla - Nagmatia Colony, Road No. 1,
Police Station - Civil Line, Town and District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Union
Development and Housing, Government of Bihar, Patna.
2. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.
3. The Sub Divisional Officer, Sadar, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. Mohammad Jawaaid Khan, aged about 52 years, male, son of Mohammad
Seraj Uddin Khan, Resident of ALN Road, Near - Masjid, Murarpur, Gaya,
Bihar, 823001 - Business.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Adv.

For the Respondent No. 5 : Mr. J.S. Arora, Sr. Adv.

Mr. Manoj Kumar, Adv.

For the Corporation : Mr. Rabindra Priyadarshi, Adv.

For the State : Mr. Rakesh Ambastha, AC to AAG-7

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 17-03-2021 Heard Mr. Ranjeet Kumar, learned Advocate for

the petitioner, Mr. J.S. Arora, learned Senior Advocate for



the respondent No. 5 and Mr. Rabindra Priyadarshi, learned Advocate for the Gaya Municipal Corporation. The State is represented by Mr. Rakesh Ambastha, learned AC to AAG-7.

This is an application seeking factual modification in the order dated 11.12.2020 passed in C.W.J.C. No. 8436 of 2020 at the instance of the petitioner, who is the respondent No. 5 in the aforesaid C.W.J.C. No. 8436 of 2020.

After hearing the parties, this Court is satisfied that the following modification be made in the order dated 11.12.2020 passed in C.W.J.C. No. 8436 of 2020:

(i) In paragraph 6 of the order, the word 'Admittedly' is deleted and the said paragraph of the order would start with the word 'The'.

(ii) Paragraph 18 of the order stands modified and it be deemed to be read as hereunder:

"Against the aforesaid declaration of the Gaya Municipal Corporation for cancellation of the allotment of respondent No. 5, which according to the claim of respondent No. 5 as also of the Corporation that it was



never given effect to, the respondent No. 5 preferred a contempt petition before this Court, which was disposed off by holding that the contempt petition is not made out and if at all the respondent No. 5 was aggrieved by any order of the Corporation, that could have been questioned in an appropriate proceeding before an appropriate forum.”

(iii) Paragraph 23 stands deleted from the order.

(iv) In paragraph 27 of the order, the following sentence would be incorporated:

“However, the counsel for the respondent No. 5 submits that this assertion of the petitioner that he is the allottee of Shop No. 15 is sought to be contested by respondent No. 5.”

(v) Finally, paragraph 28 of the order would be deemed to be read as follows:

“The petitioner would be at liberty to approach the Town Commissioner, Gaya Municipal Corporation and make a request for unlocking/de-sealing of Shop No. 15 of which he claims to be the rightful allottee and would remind the authority that the rule of law has to be followed in every



aspect of administration and even if the petitioner is not found to be the rightful occupant of the property, he could be evicted only by taking resort to the rules in that regard.”

The order dated 11.12.2020, passed in C.W.J.C. No. 8436 of 2020, stands modified accordingly.

(Ashutosh Kumar, J)

Praveen-II/-

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