

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.662 of 2022

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1. M/S Jagdamba Traders through its Proprietor Sanjay Prasad (M), aged about 51 years, son of Ramayan Sah, resident of Village- Lalgarrh, P.S.- Bettiah Muffasil, District- West Champaran.
 2. Shree Balaji Traders, through its Proprietor Ramjee Kumar Jaiswal (M), aged about 44 years, son of Mangal Prasad Jaiswal, resident of Village- Lalgarrh, P.S.- Bettiah Muffasil, District- West Champaran.
 3. M/S Meraj Ashraf and Com., through its Proprietor Meraj Jamil (M), aged about 34 years, son of Late Monazir Jamil, resident of Khudabaksh Chowk Hospital Road, Bettiah, P.S. Town Thana, District- West Champaran.
 4. M/S Ras Bihari Prasad Gupta, through its proprietor, Ras Bihari Prasad Gupta (M), aged about 44 years, son of Radhe Shyam Prasad Gupta, resident of Ladu Ram Gola, Ganj No. 2, P.S.- Bettiah Town, District- West Champaran.
 5. M/S Sanjay Kumar, through its Proprietor Sanjay Kumar (M), aged about 45 years, Son of Rajbanshi Sah, resident of Khiriya Ghat, P.S.- Bairiya, District- West Champaran.
 6. M/S Shital Traders, through its Proprietor Shyam Bihari @ Shyam Bihari Gupta, resident of Ladu Ram Gola, Ganj No. 2, P.S.- Bettiah Town, District- West Champaran.
 7. M/S Shiva Traders, through its Proprietor Deepak Kumar (M), aged about 46 years, son of Late Rameshvar Prasad, resident of Ilamram Chowk, P.S.- Bettiah Town, District- West Champaran.
 8. M/S Shankar Traders, through its Proprietor Anwar Karim (M), aged about 52 years, son of Late Abdul Gafur, resident of Dwar Devi Chowk, P.S.- Bettiah Town, District- West Champaran.
 9. Maa Enterprises, through its Proprietor Manoj Singh (M), aged about 56 years, son of Late Awadesh Singh, resident of Naya Bazar, Purani Gudari, P.S.- Bettiah Town, District- West Champaran.
 10. M/S Azad Fruits Company, through its Proprietor Md. Islam (M), aged about 47 years, son of Late Esmail Miyan, resident of Purani Gudri, P.S.- Bettiah Town, District- West Champaran.
 11. M/S Durga Trading Company through its Proprietor Parmeshwar Prasad



(M), aged about 74 years, son of Ramchandra Prasad, resident of Hospital Road, P.S.- Bettiah Town, District- West Champaran.

12. M/S P.N. Traders, Bettiah, through its Proprietor Raj Kumar (M) aged about 44 years, son of Bharat Prasad, resident of Indra Chowk, P.S.- Bettiah Town, District- West Champaran.
13. M/S Shiv Ganpati Traders, through its Proprietor Shankar Sah (M), aged about 60 years, son of Late Gaya Sah, resident of Rameshwar Nagar Sant Ghat, P.S. Bettiah Town, District- West Champaran.
14. M/S Laxmi Traders, Bettiah, through its Proprietor Shravan Kumar Shah (M), aged about 33 years, son of Yadolal Sah, resident of Laukariya, P.S.- Bairiya, District- West Champaran.
15. M/S Imteyaj Fruits Company, through its Proprietor Md. Imteyaj Khan (M), aged about 46 years, son of Late Nesar Khan, resident of Ganj No. 2, P.S.- Bettiah Town, District- West Champaran.
16. M/S Jhulan Prasad, through its Proprietor Jhulan Prasad @ Bhulan Sah (M), aged about 49 years, son of Late Harihar Sah, resident of Bhitaha, P.S.- Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Bettiah, West Champaran.
3. The Sub Divisional Officer-cum- Special Officer, Agriculture Produce Market Committee (D), Bettiah.
4. The District Agriculture Produce Market Committee (D), Bettiah through its Chairman.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Advocate Mr. Pranav Kumar Jha, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR**

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-02-2022

The petitioners have prayed for the following relief/s :-

That this writ application is being filed for issuance of an appropriate writ/writs, order/orders in the nature of certiorari for quashing of the letter dated 22.12.2020 and 29.12.2020 as contained in Annexure-'4 Series' by which the Respondent No.3, the Sub-divisional Officer-cum-Special Officer, Agriculture Produce Market Committee (D), Bettiah, West Champaran has directed the petitioners to vacate the allotted shop within one week, without following the procedure of law and as much as in violation of agreement executed between the parties at the time of allotment of respective shops to the petitioners right from 1992 against which the petitioners took possession of their respective shops and paying the rent regularly upto till 2019 and not violated any terms of agreement and further for issuance of a writ in the nature of mandamus for directing and commanding the Respondents not to disturb the physical possession of the petitioners who are the licensee of the shops and further for any other appropriate relief/reliefs for which the petitioners are found entitled in the facts and circumstances of the case.



Learned counsel for the petitioners states that petitioners' case is similarly situated as that of the petitioners in CWJC No. 6201 of 2021, titled as **Ajay Prasad @ Ajay Kumar & Ors. Vs. The State of Bihar & Ors.**

We notice that the notices issued by the respondent, asking the petitioners to vacate their shops allotted by the erstwhile Agricultural Produce Market Committee, Bettiah, situated at Bettiah- Muzaffarpur Highway, were quashed, only on the ground that no notices were ever issued or opportunity of hearing afforded. The said judgment has attained finality. Also, till date, before us, the aforesaid facts have not been disputed.

As such, on the principal of parity, we are inclined to pass a similar order. Such notices dated 22.12.2020 and 29.12.2020 (Annexure-4 series) are quashed and set aside on the following mutually agreeable terms :-

(a) Petitioners shall make themselves available in the office of respondent No. 3, namely, the Sub-Divisional Officer-cum-Special Officer, Agriculture



Produce Market Committee (D), Bettiah on 08.03.2022 at 10.30 A.M.;

(b) Complete record in support of the action for ejectment/eviction shall be supplied to the petitioners.

(c) Petitioners shall be afforded opportunity to file response thereto, which shall be done within a period of four weeks;

(d) Petitioners through learned counsel undertake to fully cooperate and not take unnecessary adjournment;

(e) Appropriate authority shall positively decide the matter in accordance with law, within a period of two months thereafter;

(f) Till such decision is taken, *status quo*, as on date shall be maintained;

(g) Liberty is reserved to the petitioners to initiate appropriate proceedings in accordance with law, should the need so arise; and

(h) We clarify that we have not expressed any opinion on facts and law. All issues are left open.

The instant petition stands disposed of in the



aforesaid terms.

Interlocutory Application(s), if any, stands
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	25.02.2022
Transmission Date	

