

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3837 of 2022

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Abdul Gafur, S/o Late Md. Suleman, r/o Ward No. 11, RK College Road,
Dataganj, P.S.-Town, District-Madhubani.

... .. Petitioner

Versus

1. Madhubani Municipal Corporation, Madhubani through its Commissioner.
2. Commissioner, Madhubani Municipal Corporation, Madhubani.
3. Chief Executive Officer, Madhubani Municipal Corporation, Madhubani.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Baidya Nath Thakur, Advocate
For the Respondents-Corporation: Mr. Pankaj Kumar Das, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 29-07-2022

Heard Mr. Baidya Nath Thakur, learned counsel for
the petitioner and Mr. Pankaj Kumar Das, learned counsel for
the Municipal Corporation, Madhubani.

2. The present application has been filed by the
petitioner for quashing the notice dated 28.12.2021 issued by
the Municipal Commissioner of the Madhubani Municipal
Corporation, Madhubani whereby the petitioner has been asked
to explain as to why he has laid construction over 1 katha 7 dhur
2 dhurki of municipal land bearing khata no.21, plot no.3044
situated Mouza-Sapta, P.S.-Town, District-Madhubani. The
petitioner has also challenged the notice dated 31.01.2022



issued by the Municipal Commissioner, Madhubani Municipal Corporation, Madhubani whereby he has been asked to produce evidence of his title over 1080 square feet of land in khata No.21, plot No.3044 in Mouza-Sapta, P.S.-Town, District-Madhubani.

3. Learned counsel for the petitioner submitted that the disputed land was jointly recorded in the names of Thithar Kujra, Mianjan Kujra and Mangla Kujra, son of Ravi Kujra. Dukha Kujra was the son of Mianjan. Bodhi, daughter of Dukha was married to Suleman Kujra. Thithar, Mianjan and Mangla gifted their entire properties to Suleman and delivered possession to him with full right, title and interest and, thereafter, Jamabandi No.33 was opened in his name. In 1951, Suleman gifted the disputed land to the petitioner and delivered the possession to him with full right, title and interest. The ex-landlord submitted his return in which the name of the petitioner was mentioned with respect to the disputed land and land revenue was paid to the State and land receipt was issued from time to time. The petitioner sold 11 dhurs of the disputed land to Meena Devi, wife of Jagdish Prasad Yadav and delivered possession to her with full right, title and interest. She is still in peaceful possession of her purchased land.



4. Learned counsel for the petitioner further contended that with regard to the disputed land earlier also, encroachment case was initiated and proceedings under Section 144 of the CPC were initiated but, they were dropped as a title suit is pending in respect of the land in question. He contended that after receipt of the first notice, the petitioner has submitted a reply dated 28.12.2021 wherein he has stated that he has right, title and interest and peaceful possession over the disputed land. He contended that the impugned notices dated 28.12.2021 and 31.01.2022 are arbitrary, unreasonable and *mala fide*.

5. On the other hand, Mr. Pankaj Kumar Das, learned counsel for the Madhubani Municipal Corporation submitted that the instant writ petition has been filed against the notices issued by the Municipal Commissioner. There is no order passed by the Municipal Commissioner till date. According to him, the present application filed by the petitioner is premature, as the Municipal Commissioner is well within his jurisdiction to issue notice in respect of the disputed plot.

6. We find substance in the submission of the learned counsel for the respondent-Municipal Corporation, Madhubani.

7. It would be evident from the pleadings advanced in the present application that the matter is still under



consideration before the Municipal Commissioner, Madhubani and no final order has been passed by him against the petitioner. It is not the case of the petitioner that Municipal Commissioner has no authority to question legality of the construction in question. Hence, it cannot be said that the impugned notices have been issued by the Municipal Commissioner without jurisdiction. Moreover, the petitioner has already filed reply to the notices which is still under consideration.

8. In that view of the matter, at this stage, we are not inclined to entertain the present application.

9. The writ petition is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

(Shailendra Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03-08-2022
Transmission Date	NA

