

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4536 of 2021

1. Ramashish Dubey Son of Bhangi Dubey, resident of Mohalla- Laskariganj Ward No. 18, Sasaram, Police Station- Sasaram (M), District- Rohtas.
2. Parshuram Dubey Son of Late Hari Nath Dubey, resident of Mohalla- Laskariganj Ward No. 18, Sasaram, Police Station- Sasaram (M), District- Rohtas.
3. Rameshwar Dubey, Son of Late Hari Nath Dubey, resident of Mohalla- Laskariganj Ward No. 18, Sasaram, Police Station- Sasaram (M), District- Rohtas.
4. Kapildeo Dubey, Son of Late Raj Nath Dubey. resident of Mohalla- Laskariganj Ward No. 18, Sasaram, Police Station- Sasaram (M), District- Rohtas.
5. Vinod Dubey, Son of Late Raj Nath Dubey. resident of Mohalla- Laskariganj Ward No. 18, Sasaram, Police Station- Sasaram (M), District- Rohtas.
6. Rajpati Kuer, Wife of Late Ram Nath Dubey. resident of Mohalla- Laskariganj Ward No. 18, Sasaram, Police Station- Sasaram (M), District- Rohtas.
7. Kavita Kuer daughter of Late Raj Nath Dubey. resident of Mohalla- Laskariganj Ward No. 18, Sasaram, Police Station- Sasaram (M), District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development Department, Government of Bihar, Patna.
2. District Magistrate, Rohtas at Sasaram.
3. Sub-Divisional Magistrate, Sasaram, District- Rohtas.
4. Sasaram Municipality through its Executive Officer, Sasaram Municipality, District- Rohtas.
5. Executive Officer, Sasaram Municipality, Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate
		Mr. Kunal Ranjan, Advocate
For the Respondent/s	:	Mr. Kinkar Kumar (SC9)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD



ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

7 01-02-2022 This application has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

2. The petitioners have put to challenge a notice dated 04.01.2020 issued by the Executive-Officer, Sasaram Municipality, Sasaram, whereby they have been asked to produce relevant documents and evidences in support of their claim based on which plots No. 256/202 had been mutated in their names. It is the petitioners' case that the said notice issued in mutation case No. 344 of 2018-19 is beyond jurisdiction, inasmuch as, the Executive Officer, *Nagar Parishad*, Sasaram, does not have any power to review his own order whereby the said plots were ordered to be mutated in the name of these petitioners.

3. The matter was earlier heard by this Court on 21.08.2021. This Court, while issuing notice to the municipality, had stayed the operation of the impugned notice dated 04.01.2020, considering the submission that earlier also similar notice was issued by the erstwhile *Nagar Nigam*, Sasaram to submit their defense in the said Mutation Case No. 344 of 2018,



whereupon they had filed their objections which were then pending.

4. From the pleadings and documents which have been brought on record, it appears that the petitioner was asked to appear before the Executive Officer, *Nagar Parishad*, Sasaram with connected documents and evidence in support of the mutation allowed in their favour. It is the petitioners' case that they had already submitted their representation in response to an earlier notice dated 27.12.2019, which has yet not been considered and no decision has been taken thereon before issuance of the impugned notice dated 04.01.2020.

5. Learned counsel for the petitioner has drawn our attention to an order of this Court dated 11.01.2012 passed in CWJC No. 3059 of 1997 (Pahalad Dubey Vs. State of Bihar) to submit that the dispute between the petitioner and the erstwhile Sasaram Municipality in relation to the lands in question had already been adjudicated upon and the action of the respondent Municipal Corporation to open the same dispute again and again is arbitrary, requiring this Court's interference.

6. One interlocutory application seeking intervention has been filed in this case by intervenors who claim to be the owners of the plot in question and on whose objection the



impugned notice has been issued by the Executive Officer, Sasaram Municipality.

7. Learned counsel appearing on behalf of the intervenor petitioner contends that the petitioners obtained the order from this Court on 11.01.2012 by suppressing material facts.

8. Be that as it may, in our view, at this stage, no interference by this Court is warranted. The petitioner shall be at liberty to take plea of lack of jurisdiction to review its own decision, before the Executive Officer, which shall be considered on its own merits. They may appear before the Executive Officer with the documents in their support including this Court's order dated 11.01.2012 passed in CWJC No. 3059 of 1997.

9. It goes without saying that the Executive Officer shall be required to take a final decision on all the points being raised by the petitioners in opposition to the impugned notice issued by the Municipality/Corporation.

10. Learned counsel for the intervenor petitioner contends that they should also be given an opportunity to present their case before the Executive Officer.

11. In the facts and circumstances of the case as noted



above, we dispose of this writ application with a direction to the petitioners and intervening respondents to appear before the Municipal Commissioner, Sasaram within two weeks at 10:30 A.M. The Executive Officer of the Corporation shall be obliged to consider the respective case of the parties including the question of maintainability of the case, as has been raised by petitioners in present proceeding.

12. This application stands disposed of accordingly with the aforesaid direction and observations.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

U			
---	--	--	--

