

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9262 of 2021

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1. Most. Nirmala Devi, female, aged about 68 years, widow of late Satyadev Poddar resident of Village - Dhamdaha Tola-Nehru Chouk Nandgram, Police Station- Dhamdaha, District- Purnea.
 2. Kailash Poddar, male, aged about 52 years Son of Late Sita Ram Poddar, Village and Police Station- Dhamdaha District- Purnea.
 3. Binod Kumar Sah, male aged about 47 years Son of Late Chandra Kishor Prasad Sah resident of Village- Dhamdaha North, Police Station - Dhamdaha, District- Purnea.

... .. Petitioners

Versus

1. The State of Bihar through the Collector Cum the District Magistrate at Purnea.
2. The District Board, Purnea through the Deputy Development Commissioner Cum the Chief Executive Officer of the District Board.
3. The District Development Commissioner Cum the Chief Executive of the District Board, Purnea.
4. The District Engineer, the District Board, Purnea.
5. The Assistant Engineer, the District Board, Purnea.
6. The Sub Divisional Officer at Dhamdaha within the District of Purnea.
7. The Amin, Zila Parishad, Purnea.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Arun Prasad Ambastha with Mr. Binay Kumar Sinha, Advocates
For the State	:	Mr. Ajay GA-5 with Mr. Krishna Chandra AC to GA-5
For the Zila Parishad	:	Mr. Mukul Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 08-03-2022

This writ application has been filed seeking quashing of
the notification dated 12-09-2018, issued by the Deputy



Development Commissioner-cum-Chief Executive Officer of the *Zila Parishad, Purnea*, cancelling settlement of temporary shops allotted to the petitioners or their family members w.e.f. 31-07-2018. The action has been taken since '*Gudri Haat*' has been constructed in the *Zila Parishad*, Dak Bunglow premises and were to be allotted to the selected beneficiaries. The petitioners have also been called upon to clear the arrears of rent within a week and to remove their temporary shops.

2. The admitted position, based on submission of the parties is that the lands which the petitioners have been asked to vacate after cancellation of the settlement are lands adjacent behind their shops which were allotted earlier in the year 1997. The petitioners were not finding the area allotted to them to be sufficient for carrying on the business of sweetmeat and they requested the *Zila Parishad* for allotment of the additional lands in question, adjacent behind their shops. The allotment of these additional adjacent lands were with a clear stipulation that no permanent structure was to be erected thereupon. The petitioners were allowed only to have a temporary shed over these subsequently allotted lands for carrying on kitchen activity for their sweetmeat shop. There is vast chunk of land behind the petitioners shops in the *Zila Parishad* Dak Bunglow premises



where ‘*Gudri Haat*’ is being constructed. It is also admitted that the petitioners have erected a wall and covered the area by putting up a roof. Though they have termed this structure as temporary, but it is clear that enclosure of the area by walls, is in breach of the terms of settlement for these lands in question.

3. Based on these admitted facts, the relief, seeking quashing of the communication whereby they have been asked to remove the structures from the temporary settlement, cannot be had in a writ proceedings. The admitted position is that the petitioners have encroached the area with walls.

4. Learned counsel for the *Zila Parishad* rightly submits that having violated the expressed terms of temporary settlement with respect to the land in question, the petitioners cannot be permitted to invoke the equitable jurisdiction of this Court under Article 226 of the Constitution of India. He further submits that the temporary settlement in favour of the petitioners has been abused by them and having done so, they cannot be permitted to create hindrance in development of ‘*Gudri Haat*’ within the *Zila Parishad*, Dak Bunglow premises behind their shops.

5. In the supplementary affidavit, however, petitioners have stated that they are ready to bear the cost and to fulfill any other condition, if imposed, or as directed by the *Zila Parishad*



for allotment of shops/rooms in the new structure within ‘*Gudri Haat*’.

6. This Court without expressing any opinion on the merits of this claim, leaves it for consideration of the Authorities, as per law.

7. No case is made out for the petitioners to seek the relief, as prayed for, in these writ proceedings.

8. The writ petition is devoid of merit and is dismissed.

(Madhuresh Prasad, J)

I agree
Chakradhari Sharan Singh, J:

(Chakradhari Sharan Singh, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	07-03-2022
Uploading Date	23-03-2022
Transmission Date	

