

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16634 of 2021

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Mala Devi, W/o Late Daya Shankar Prasad, resident of Mohalla- Gandhi Ashram, P.S. Hajipur Town, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Vikash Bhawan, Baily Road, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Grievance Redressal Officer, District Grievance Redressal Cell, Vaishali.
5. The Nagar Parishad, Hajipur at Vaishali, through its Town Executive Officer.
6. Town Executive Officer, Nagar Parishad, Hajipur at Vaishali.
7. The Sub-Divisional Officer, Hajipur at Vaishali.
8. The Circle Officer, Hajipur at Vaishali.
9. Vishnudev Rai, S/o Late Gona Rai @ Gona Yadav, residnet of Anwarpur, Gandhi Ashram, P.S.- Hajipur Town, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr.Lakmesh Marvind, Advocate
For the State	:	Mr.Kinkar Kumar, S.C.-9
		Ms. Deepika Sharma, A.C. to S.C.-9
For Nagar Parishad	:	Mr. Ankit Katriar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 25-04-2022

The petitioner was paid an advance of Rs.7,500/- for construction of toilet under Swachh Bharat Mission in 2016.

2. It is the petitioner's case that she constructed a toilet over a piece of land near her residential house. Subsequently, it came



to the notice of the official respondents, on a complaint made by private respondent No.9 that the land over which the construction of toilet was made by the petitioner did not belong to her. Respondent No.9 appears to have claimed his title over the land that he had acquired through a sale deed.

3. In the present writ application, the petitioner has not disputed the fact that the land over which the toilet has been constructed does not belong to her. It is rather an admitted fact that the petitioner does not have a title over the said land. In the said background, the petitioner has been asked to refund the said amount of Rs.7,500/- which was paid to her.

4. The petitioner has filed this writ application, whereby the sanction granted in her favour for construction of toilet under the said Scheme has been cancelled and the amount of Rs.7,500/- paid to her has been directed to be refunded. It appears that raising her grievance against this action, the petitioner had approached the authorities under Bihar Right to Public Grievances Redressal Act, 2015, where the petitioner's claim has been turned down.

5. In the present writ application, the petitioner has put to challenge an order dated 17.01.2020 passed by the



Principal Secretary, Urban Development and Housing Department, Government of Bihar, whereby the petitioner's second appeal filed against the order of Divisional Commissioner, Tirhut Division, Muzaffarpur, under the provisions of the said Act has been rejected. The order passed by the District Grievance Redressal Officer, Vaishali dated 31.01.2019 and the order passed by the Divisional Commissioner, Tirhut Division, Muzaffarpur (the 1st Appellate Authority) are also under challenge in the present writ application.

6. The petitioner is also seeking a direction from this Court to the respondents to release further amount of Rs.4,500/- for construction of the toilet over the land in question under the Scheme.

7. In our opinion, this being an admitted fact that the land over which the petitioner has constructed the toilet does not belong to her, the authorities have rightly cancelled sanction of the amount in her favour. Further, on the basis of the pleadings on record, we are of the view that there is dispute in relation to title in respect of the land over which the petitioner has constructed the toilet.



8. It is the petitioner's contention that the land in question is recorded in the name of Jaimanti Devi in *Khatiyani* and son of Jaimanti Devi and his wife had filed a petition in the Office of the Sub-Divisional Magistrate that the same was settled by his father in favour of the father-in-law of the petitioner, who was a Mokhtar. In that capacity, the petitioner is residing over the land for the last 70-75 years.

9. We have taken note of the fact that in a legal notice sent on behalf of the petitioner to the Town Executive Officer, Nagar Parishad, Hajipur dated 07.07.2017, an objection was raised on behalf of the petitioner that the Executive Court did not have any power to adjudicate upon title and unless the title was adjudicated by the Civil Court, the District Grievance Redressal Officer, Vaishali did not have any authority to direct the petitioner to vacate the land over which the toilet was constructed. It is thus admitted case of the petitioner that there is a title dispute in respect of the land over which the toilet has been constructed.

10. In any view of the matter, it is a fact which is admitted by the petitioner that the land over which the toilet has been constructed does not belong to her.



11. In such view of the matter, impugned actions of the respondents do not call for any interference by this Court. This writ application has no merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

