

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1586 of 2018

1. Nag Swami Nagmani son of Suresh Prasad
2. Sanju Kumari, Wife of Nag Swami Nagmani, Both Resident of Mohalla-West Lohanipur, P.S.-Kadam Kuan near Goriya Asthan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Sub-Divisional Officer, Patna Sadar, Patna.
3. The Maintenance Tribunal through its Chairman, Patna.
4. Suresh Prasad, Son of Late Binda Prasad Sinha
5. Chandawati Devi, Wife of Suresh Prasad Both Resident of Mohalla-West Lohanipur, P.S.-Kadamkuan, District-Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nand Kishore Prasad Sinha, Advocate
For the Respondent/s : Mr.Sajid Salim Khan-Standing Counsel-25

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 29-08-2022

The present writ petition has been filed for quashing the order dated 22.12.2017 passed by the Chairman, Maintenance Tribunal, Patna in Case No. 18 of 2017, whereby and whereunder the petitioners have been directed to vacate the house constructed over the land purchased by the father of the petitioner no. 1 who has been arrayed as respondent no. 4 herein.

The brief facts of the case, according to the petitioners are that the respondent nos. 4 & 5, who are the parents of the petitioner no. 1 had filed an application before the Sub-



Divisional Officer, Sadar, Patna-cum-Chairman of the Maintenance Tribunal (hereinafter referred to as the 'Maintenance Tribunal'), on 15.09.2017 under the provisions of the Maintenance and Welfare of Parents & Senior Citizens Act, 2007 (hereinafter referred to as the 'Act, 2007'), against the petitioners who are the son and daughter-in-law of the respondent nos. 4 & 5, alleging therein that the petitioners used to abuse them, leading to registration of a case bearing Case No. 18 of 2017, whereafter a notice dated 16.09.2017 was issued to the petitioners fixing the date of hearing as 07.10.2017. The petitioners are stated to have appeared before the Sub-Divisional Officer, Sadar, Patna and had refuted the allegations made against them, nonetheless, the Sub-Divisional Officer, Patna Sadar by the impugned order dated 22.12.2017 has passed an order directing the petitioners to vacate the house situated at Lohanipur within a period of one month.

The learned counsel for the petitioners has made only one submission to the effect that now the matter has been compromised and there is no dispute in between the petitioners and the respondent nos. 4 & 5, hence the impugned order dated 22.12.2017 be set aside, more so since the petitioners are ready to stay peacefully with the respondent nos. 4 & 5 and look after



the welfare of the respondent nos. 4 & 5.

Per contra, the learned counsel appearing for the respondent nos. 4 & 5 has disputed and denied the factum of any compromise having taken place in between the respondent nos. 4 & 5 and the petitioners and has, on the contrary, submitted that the respondent nos. 4 & 5 are more than 70 years of age, who are being harassed regularly by the petitioners. It is also stated that the respondent no. 4 used to work as a Typist for livelihood and with his income, he has married his three daughters who are living in their matrimonial home happily. It is also submitted that the respondent no. 4 had five brothers who had jointly purchased one katha of land situated at Patna Municipal Khesra No. 907, Seat No. 43, Circle No. 19, presently Circle No. 13, Tauzi No. 05 situated at West Lohanipur under Kadamkuan Police Station and after partition amongst the brothers, four dhur of land fell in the share of the respondent no. 4, apart from one of the elder brother of the respondent no. 4 having also given his share of four dhurs to the respondent no. 4 resulting in the petitioners owning eight dhurs of land upon which he, from his own earning, has constructed a three storied house in which the respondent no. 4 is living at present on the second floor whereas the petitioners are living on



the first floor and the ground floor has been given to a tenant on monthly rent. It is also submitted that the respondent no. 4 had also purchased two katha land in the name of his daughter-in-law i.e. the petitioner no. 2 herein bearing Tauzi No. 131, Khata No. 114, Thana No. 26, Khesra No. 1356 in Mauza-Jaganpura under the Police Station-Fulwari Sharif as well as one katha land in the name of his daughter. It is further stated that after the marriage of the daughters, the respondent nos. 4 & 5 are not only maintaining the petitioners and their two sons but are also paying all the school fees of the two sons of the petitioners. Nonetheless, the petitioners started misbehaving with the respondent nos. 4 & 5 since the year 2010 and used to regularly abuse and manhandle the respondent nos. 4 & 5, hence they started living on the second floor and are also cooking their food on their own. Under such circumstances, the respondent nos. 4 & 5 had advised the petitioners to vacate the house in question and live in the house situated at Jaganpura under Ram Krishna Nagar Police Station so that all can live in peace but the petitioners did not heed to the pleas of the respondent nos. 4 & 5, leading to the respondent nos. 4 & 5 filing an application before the Ld. Maintenance Tribunal i.e. before the Sub-Divisional Officer, Sadar Patna on 19.04.2017, under the



provisions of the Act, 2007 wherein they had made a prayer to direct the petitioners to vacate the house in question and shift to another house of the respondent nos. 4 & 5 situated at Jaganpura (Ram Krishna Nagar), whereafter the learned Tribunal had registered a case bearing Case No. 18 of 2017 as also had issued notices to the petitioners whereupon they had appeared before the learned Tribunal and had filed their show cause reply stating therein that their sons had to appear in their matriculation examination to be conducted in the month of March, 2018, hence they be allowed to live in the said house only till March, 2018. It is further submitted by the learned counsel for the respondent nos. 4 & 5 that the learned Maintenance Tribunal, after hearing the parties and after following all the due process of law, passed an order dated 22.12.2017, directing the petitioners to vacate the house in question within one month and shift to the other house of the respondent nos. 4 & 5.

Per contra, the learned counsel for the respondent-State has submitted that there is no infirmity in the impugned order dated 22.12.2017, passed by the Ld. Maintenance Tribunal and in the interest of the parents i.e. the respondent nos. 4 & 5, the petitioners have been directed to shift to another house constructed by the respondent nos. 4 & 5 situated at Jaganpura,



Police Station-Ram Krishna Nagar, District-Patna, hence there is no merit in the present writ petition and the same is fit to be dismissed.

I have heard the learned counsel for the parties and perused the materials on record as also have gone through the impugned order dated 22.12.2017 passed by the Maintenance Tribunal, Patna Sadar, Patna. This Court finds that the respondent nos. 4 & 5 have two houses, one situated at Jaganpura, P.S.-Ram Krishna Nagar, District-Patna and the other situated at Lohanipur and not only the land but also the said houses have been acquired/constructed by the respondent no. 4 from his own resources, hence there is no infirmity in the impugned order dated 22.12.2017, whereby and whereunder the learned Maintenance Tribunal has directed the petitioners to shift from the house situated at Lohanipur to the house constructed by the respondent no. 4 at Jaganpura, P.S. Ram Krishna Nagar, District-Patna. Moreover, this Court finds that the impugned order dated 22.12.2017, passed by the learned Maintenance Tribunal, Patna neither suffers from any procedural infirmity nor from any jurisdictional error, hence the same does not require any interference. In any view of the matter, the learned counsel for the petitioners has failed to raise



any legal issue in the present case so as to warrant interference with the impugned order dated 22.12.2017, passed by the learned Maintenance Tribunal, Patna Sadar, Patna. In any view of the matter, since the petitioners had undertaken before the learned Maintenance Tribunal to vacate the house after the completion of the examination of their son, to be held in the month of March, 2018, now it does not lie in the mouth of the petitioners to contend that they will not vacate the house in question, though they are being accommodated in another house of the respondent no. 4 and it is not the case of the petitioners that they will be rendered homeless.

Considering the aforesaid facts and circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	05.09.2022
Transmission Date	

