

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15672 of 2021

1. Dinesh Prasad Son of Late Hari Saw Proprietor M/s Lakshami Hardware, (Shop No. 01/46, Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Mohalla- Ramchandrapur, P.S.- Biharsharif, District- Nalanda.
2. Dharmendra Kumar Son of Sri Vinod Kumar Proprietor M/s Saho Aaloo Bij Bhandar (Behind Shop No.1/46 Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Mohalla- Bharabpar, P.S.- Laheri, Biharsharif, District- Nalanda.
3. Dharmsheela Devi Wife of Late Ishwari Prasad Proprietor M/s Sri Sabaliya Seth (Godam only) Behind Shop No.1/46, Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Mohalla- Chakhajiyain, Ramchandrapur, Biharsharif, P.S.- Laheria, District- Nalanda.
4. Munna Singh Son of Brahmdeo Prasad Proprietor M/s B.M. Traders, (Shop No.06/46) Bazar Samitee, Ramchandrapur, Biharsharif Resident of Mohalla- Ramchandrapur, Biharsharif, P.S.- Laheri, District- Nalanda.
5. Mahesh Prasad Son of Suresh Prasad (Behind Shop No.1/46 Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Mohalla- Salempur, Ward No.4, Biharsharif, P.S. Laheri, District- Nalanda.
6. Arun Kumar Son of Late Bhagwan Das Proprietor Tridev Hardware (Behind Shop No. 4/46, Bazar Samitee, Ramchandrapur, Biharsharif), Resident of Mohalla- Ramchandrapur Bazar Samitee, Biharsharif, P.S.- Laheri, District- Nalanda.
7. Ashok Kumar Son of Late Jagdish Prasad Proprietor M/s Kishan Tokari Bhandar (Behind Shop No.1/46, Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Saluganj, P.O. and P.S.- Bihar, District- Nalanda.
8. Mahendra Prasad Son of Late Ramchandra Ram (Shop No.19, Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Village and Post- Sohsarai, District- Nalanda.
9. Vinod Kumar Singh Son of Brahmdeo Prasad Sinha Proprietor M/s Sujal Aro Agency (Shop No.61, Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Sujal Agro Agency, P.S.- Laheri, Biharsharif, District- Nalanda.
10. Chandra Bhushan Prasad Son of Late Ramlakhan Prasad (Shop No.34, Bazar Samitee, Ramchandrapur, Biharsharif) Resident of Village and P.O.- Baruara, P.S.- Nursarai, Biharsharif, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Agriculture Department, Bihar, Patna.
2. The Managing Director, Agriculture Marketing Board, Patna, Office at Pant Bhavan, Bailey Road, Patna.
3. The District Magistrate, Nalanda.
4. The Sub-Divisional Magistrate-cum-Special Officer, Kishi Bazar Samiti, Ramchandrapur, Biharsharif, Nalanda.

5. The Chairman, Agriculture Marketing Board, Ramchandrapur Bazar Samiti, Biharsharif, Nalanda.
6. The Sub-Divisional Officer, Biharsharif cum Special Officer, Krishi Utpadan Bazar Samiti Biharsharif.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rudal Singh, Advocate
For the Respondent/s : Mr.Anant Pd. Singh (Sc15)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 24-01-2022

Petitioners have prayed for following reliefs:-

(I) For quashing the order/notice vide Letter No.627(Anu) dated 27-07-2021 (contained in Annexure-3) to this writ petition) issued under the signature of Sub-Divisional Officer-cum-Special Officer, Krishi Utpadan Bazar Samiti, Biharsharif, by which all petitioners have been ordered to removed the self made construction and vacate Godan in the premises of Bazar Samiti till 28-08-2021, this letter/notice/order issued vide Memo No.23/Ck010 Biharsharif Dated 14-08-2021.

(ii) To stay the operation of the order/notice vide Letter No.627(Anu) dated 27-07-2021 issued under the signature of Sub-Divisional Officer-cum-Special Officer, Krishi Utpadan Bazar Samiti, Biharsharif on 14-08-2021 during the pendency of this writ application.

(iii) To any other relief/reliefs for which the petitioners are entitled in law.”

Briefly stated the facts of the case is that the petitioners are agriculturists and were allotted shops / vacant land on payment of rent in the Bazar Samiti for selling

vegetables and fruits, however, their shops were burnt in fire and thereafter, in the year 2013-14, Sub-Divisional Officer, Biharsharif -cum- Special Officer, Krishi Utpadan Bazar Samiti, Biharsharif allotted vacant land on payment of rent measuring 30x30 feet upon which, they constructed their shops / godowns at their own cost and, thereafter, they were allotted extra land for extension of their shops/godowns on payment of rent upon which, they made constructions on their own cost. Petitioners were doing business after obtaining licence and are paying GST, Sales tax, trade licence, weight and measurement licence as per provision applicable for such business/trade.

Petitioners have no other source of income except running their business at Bazar Samiti and that is the only source of their livelihood. Petitioners have taken loan from bank for running their business.

Notice dated 14.08.2021 (Annexure 3) was issued by the SDO, Biharsharif for removal of the structures as vacant lands are required for development project under Smart City Project and, as such, petitioners have been directed to hand over the vacant possession of the land after demolishing their shops / godowns constructed over the land.

Supplementary affidavit has been filed on behalf of

petitioners in which in response to letter dated 10.08.2021, a guideline has been issued by the Secretary, Agriculture Department, addressed to SDO -cum- Special Officer, Krishi Utpadan Bajar Samiti (dissolved) that before removing the valid allottee from their land/shop/godown for Smart City Project, a new construction of similar type has to be made and such allottees have to be shifted in newly constructed structures on provisional basis.

In view of guidelines issued by the Secretary, Agriculture Department, as contained in Annexure A of supplementary affidavit, the interest of petitioners stands protected and it is expected that the SDO, Biharsharif shall act as per guidelines issued by the Agriculture Department and shall make alternative arrangements for the valid allottees before removing them from their land /shop /godown.

Accordingly, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.01.2022
Transmission Date	NA