

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17408 of 2019

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1. Pranav Kumar Jha Son of Pasamdeo Narayan Jha Resident of Mohanpur, Punaichak, P.S. Shastri Nagar, District-Patna.
 2. Bhavesh Mishra Son of Late Rabish Chandra Mishra Resident of Chikohara, P.S. Gardanibagh, District-Patna.
 3. Indra Rai Son of Late Sughan Rai Resident of Punaichak, P.S. Shastri Nagar, Distt.-Patna.
 4. Smt. Devanti Devi Wife of Shivnath Prasad Resident of Patna City, P.S.-Chowk, Distt.-Patna.
 5. Ravi Prakash Gupta Son of Umesh Prasad Gupta, Resident of Gardanibnagh, P.S. Gardanibagh, District-Patna.
 6. Braj Kishore Sharma Son of Late Ram Kishore Sharma Resident of Boring Road, P.S. S.K. Puri, Distirct-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Patna
2. District Magistrate, Patna.
3. The District Magistrate Cum Administration, Bihar Agricultural Produce Marketing Board (Dissolved), Patna.
4. Sub-Divisional Officer Cum Special Officer, Bihar Agricultural Produce Marketing Board (Dissolved), Patna.
5. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mrs.Nivedita Nirvikar, Sr. Adv.
For the Respondent/s : Mr.Shailendra Kr. Dwivedi, AC to AG-12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

11 14-11-2022 The present writ petition has been filed seeking the following reliefs:-

“(i) In the nature of “Mandamus” directing and commanding the respondent authorities not to demolish the shops of the petitioners situated at Mangles Road, Opposite New Secretariat Area, Patna which has been directed to be demolished



making announcement to vacate the same on 21/8/2019.

(ii) In the nature of “Mandamus” also directing and commanding the respondent authorities not to dispose the petitioners from the premises which is the only source of their livelihood and were allotted to them under re-habilitation scheme as well.”

At the outset, the learned counsels for the parties have referred to an order dated 21.11.2019, passed by a Co-ordinate Bench of this Court in C.W.J.C. No. 3592 of 2019 (**Rajnandan Prasad and Ors. Vs. The State of Bihar and Ors.**) to contend that the present case is squarely covered by the said order dated 21.11.2019.

It would be apt to reproduce herein below the relevant portion of the aforesaid order dated 21.11.2019 :-

“Learned counsel for the petitioners has shown from the materials available on the record that these petitioners entered in the shop premises pursuant to the allotment made in their favour by the erstwhile Marketing Board and thereafter they have continuously paid the rent of the shops in question. In Paragraph ‘4’ of the writ application categorical statements have been made showing the period for which the petitioners have paid rent in respect of their respective shops.

It is the contention of learned counsel for the petitioners that on 10th January, 2019 the District Administration visited the shops area and directed the petitioners to close their venture since government is going to make use of said area for



other purposes and the petitioners have been orally ordered to vacate the place, failing which they shall be forcefully thrown out by demolishing their shops.

Learned counsel for the State has submitted that the shops in question were built by the Marketing Board on the land of the Building Construction Department and at this stage the department has called upon the Marketing Board to handover its land, thereafter the Marketing Board having found that the petitioners are continuing in violation of the terms of lease/allotment proceeded to cancel the allotment and called upon the petitioners to vacate the shop premises. Learned counsel submits that in future the government has planned to take different project over the land in question. Having heard learned counsel for the petitioners and on careful perusal of the records, this Court finds that the relationship between the erstwhile Marketing Board and the petitioners are not in dispute. The Marketing Board had constructed the shops and had made allotment in favour of the petitioners, pursuant to which the petitioners have entered into the shop and thereafter, they claim continuing in possession for about 40 years approximately. They have come out with a specific statement that they are making payment of rent in respect of the shops. The payment may not be up-to-date but after expiry of the lease period payments have been made which have been accepted by the Administrator who is none else but the Sub-Divisional Officer, Patna City.

Be that as it may, if it is the case of the Marketing Board that for alleged violation of the terms and conditions of the lease deed, action towards cancellation of allotment of shops have been taken, this Court finds no fault with initiation of such action. The petitioners may, if so advised, challenge the action of the Marketing Board in cancelling their respective allotment in an appropriate proceeding before an appropriate court of law.



This Court would, however, say that the District Administration cannot demolish the shops and use any force against the petitioners to evict them from the shops in question unless such order of eviction and a direction to provide police force to help the Marketing Board in evicting the petitioners is passed by a competent authority/court after hearing the petitioners and in accordance with law.

This Court has been told that the premises in question would come within the meaning of the public premises as defined under the Public Premises Eviction of Unauthorized Occupants Act, 1971 (hereinafter referred to as the 'Act of 1971'), if it is so, it will be open for the respondent authorities to proceed against the petitioners under the provisions of the Act of 1971 and take the proceeding to a logical end."

The learned counsels for the parties are in agreement that the present writ petition can also be disposed off with liberty to the Respondent Authorities to proceed against the petitioners under the provisions of the Public Premises Eviction of Unauthorized Occupants Act, 1971.

Having regard to the aforesaid consensus arrived at in between the parties, the Respondent Authorities are granted liberty to proceed against the petitioners under the provisions of the Public Premises Eviction of Unauthorized Occupants Act, 1971 and take the proceedings to its logical end.

It is needless to state that till an order of eviction is



passed by the competent authority/Court, as against the petitioners, the District Administration shall neither demolish the shops of the petitioners nor shall use any force against them.

The writ petition stands disposed off with the consent of the parties on the aforesaid terms.

(Mohit Kumar Shah, J)

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