

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2732 of 2020

Shahzi Qamar Son of Syed Md. Quamaruddin Resident of Mohalla Bari Road, Yasin Colony P.S. Civil Lines Distt Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayti Raj, Govt. of Bihar, Patna
2. The Principal Secretary, Panchayti Raj, Govt. of Bihar, Patna
3. The Commissioner Magadh Pramandal, Gaya.
4. The District Collector-Cum-District Magistrate, Gaya.
5. The Zila Parishad through its Chairman Zila Parishad, Gaya.
6. The Deputy Development Commissioner-Cum-Chief Executive Officer, Zila Parishad, Gaya
7. The Director-Cum-Asst. Chief Executive Officer Zila Parishad, Gaya.
8. The Sub-Divisional Officer-Cum-Sub-Divisional Magistrate, Sadar Gaya.
9. The Anchal Adhikari, Nagar Anchal, Chandauli Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Adv.
For the Zila Parishad	:	Mr. Harish Chandra Patel, Adv.
For the State	:	Mr. Manish Kumar, AC to AAG 6

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 06-11-2023

Heard Mr. Sharda Nand Mishra, learned counsel appearing on behalf of the petitioner and Mr. Manish Kumar, learned counsel for the State. The Zila Parishad, Gaya is represented by Mr. Harish Chandra Patel, learned counsel.

2. The petitioner by filing the present writ petition under Article 226 of the Constitution of India seeking a direction to restrain the respondents from making any



obstruction in doing the construction works over the allotted land for shops No. 18 and 19 situated near the Mirza Ghalib College More, Katari Hill Path in front of the Bharat Petrol Pump towards east of the road.

3. It is the case of the petitioner that in response to the public notice published in a Hindi daily newspaper on 03.03.2019 for settlement of the shops over *parti* lands of the Zila Parishad, Gaya, he submitted his application against the plot mentioned at Sl. No. 2.

4. Learned counsel for the petitioner submits that as per the terms of the aforesaid public notice, rate was fixed @ Rs.15/- per sq. ft. and security deposit amount was fixed @ Rs.2,00,000/-. The petitioner deposited Rs.2,60,000/- against shop No. 18 and further against shop No. 19, he deposited Rs.2,45,000/-. It is further submitted that after the process having been completed, the petitioner was informed about the confirmation of the settlement through Letter No. 446/ZP dated 07.08.2019 under the signature of respondent no. 6 for allotment of shop No. 18 and *vide* Letter No. 424/ZP dated 07.08.2019 for allotment of shop No. 19. An agreement has also been executed by the respondent no. 6 in favour of the aforementioned shops, copy of which has been placed on record by way of Annexure-4 and



4/a. On the basis thereof, the petitioner started making construction of the shop. While the shop was under construction, the respondent Nos. 8 and 9 directed for removal of construction. Accordingly, the half constructed shops were demolished and stopped from making any further construction over the site. The petitioner rushed to the respondent Nos. 6 and 7 but his request has not been acceded to, hence the present writ petition.

5. On the other hand, learned counsel for the State as well as Zila Parishad submit that in fact due to said settlement and construction of shops, traffic congestion arose, causing law and order problem and thus on the complaint of the general public, the district administration intervened in the matter and construction work was stopped.

6. Further submission has been made that the matter has been brought to the notice of the District Magistrate, Gaya and after enquiry, the District Magistrate, Gaya came to the conclusion that the settlement has been made on the recommendation of the Engineer, Zila Parishad, Gaya, who without physical verification of the spot as well as on the basis of the map of the year 2014, has recommended and took steps for settlement of the shops, which caused serious traffic



problems. They also submit that the title of the District Board/Zila Parishad over the settled land is also in dispute and the matter is pending consideration in Title Suit No. 7 of 2019 before the Civil Court of competent jurisdiction. It is also submitted that one Md. Zahid Ali, who was also one of the settlee over the land in question, had approached before this Court in CWJC No. 3196 of 2020 for enforcement of the said settlement. However, the matter has been referred to the D.D.C.-cum-Chief Executive Officer, Zila Parishad to consider his representation, which came to be rejected on the ground that the recommendation of the Engineer was without any physical verification of the spot, based upon old map and thus, he has been allowed the refund of the security money as deposited with the Zila Parishad and accordingly the same was refunded.

7. In the aforesaid backdrop, the District Magistrate, Gaya vide letter No. 5411 dated 26.06.2020 directed the authorities of the Zila Parishad to maintain status quo till disposal of the title suit by the competent court. The respondents while summing up their argument, lastly submitted that admittedly the shops were settled in favour of 25 persons, however, considering the aforementioned reason, the amount of security deposit has already been refunded in favour of 22



settlees. Thus, in view of the aforesaid facts, at present, no relief can be granted to the petitioner.

8. A supplementary affidavit has been filed on behalf of the petitioner stating therein that three shops are still vacant with the Zila Parishad and in alternative the same can be settled in favour of the petitioner.

9. Having considered the submissions made on behalf of the parties and taking note of the fact that till date the Zila Parishad has not taken any steps for cancellation of the settlement of the shop Nos. 18 and 19 made in favour of the petitioner way back in the year 2019 itself, that apart considering the factum of the dispute regarding title of the Zila Parishad over the land in question in Title Suit No. 7 of 2019, a direction has been issued at the level of the District Magistrate, Gaya to maintain status quo till disposal of the title suit by the competent court, the present writ petition stands disposed of with a direction the D.D.C.-cum-Chief Executive Officer, Zila Parishad, Gaya to consider the claim of the petitioner for settlement of the shops at any other place, if the shops are available and vacant or alternatively to refund of the security amount as deposited with the Zila Parishad with interest @8% per annum, after calculating the same with effect from the date



when the same has been deposited by the petitioner.

10. The aforesaid exercise must be completed within a period of 12 weeks from the date of receipt/production of a copy of this order.

11. This disposes the present writ petition.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.11.2023
Transmission Date	

