

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11686 of 2017

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Md. Raja Hussain @ Raja Hussain Son of Ijahar Hussain, Resident of Kalibag, Ward No. 13, P.S.-Bettiah Town Kalibagh O.P., District-West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The State Of Bihar through District Magistrate-cum-Collector, Bettiah, West Champaran.
2. The District Magistrate-Cum-Collector, Bettiah, West Champaran.
3. The Chairman, Municipal Council, Bettiah, West Champaran.
4. The Executive Officer, Municipal Council, Bettiah, West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
For the State : Mr. Shiv Kumar, AC to GA 3
For Respondent/Bettiah Municipality : Mr. Priyadarshi Matri Sharan, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 26-04-2023

Heard learned counsels for the respective parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“i) For commanding the respondent to return Rs. 1,72,03,000/- (one crore seventy two lakhs three thousand) with reasonable interest to the petitioner, which has been deposited by the petitioner in the account of Bettiah Nagar Parishad against the settlement of Bus stand besides other vehicles for the year 2016-17, but the respondent authorities did not enter into required agreement and due to non



performing their party the petitioner could not collect tax/parking fee from the vehicles for entire session of 2016-17.

ii) Also for directing the respondents to return Rs. 5,16,090/- deposited by the petitioner in account of Bettiah Nagar Parishad as 3% stamp duty and also not to restrain the respondents from taking any step to realize any further amount in the name and with pretext of stamp duty against the settlement of aforesaid parking places of Bettiah Nagar Parishad for the year 2016-17.

iii) Also for commanding the respondent authorities to compensate the petitioner to his loss and damage occurred due to non-execution of agreement with the petitioner even after taking all the settlement amount besides 3% of stamp duty from the petitioner.

iv) Also for any other relief/reliefs for which the petitioner appears to be entitled in the eye of law.”

3. The reliefs sought by the petitioner cannot be entertained under Article 226 of the Constitution in view of Apex Court decision in the case of *Shubhas Jain vs. Rajeshwari Shivam and Others* reported in **2021 SCC Online SC 562** read with *Union of India and Others vs. Puna Hinda* reported in **(2021) 10 SCC 690**. It is reliably learnt that there was no agreement among the petitioner and concerned respondent. Even in the absence of any agreement, the petitioner has remedy before



the jurisdictional Court like civil court insofar as claiming the reliefs sought in the present case.

4. Accordingly, writ petition stands dismissed reserving liberty to the petitioner to invoke appropriate remedy.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.05.2023
Transmission Date	NA

