

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17581 of 2017

- 1.1. Rajkali Devi Wife of Late Bishambhar Prasad, resident of Village and Post Office Baidrabad, P.S.-Baidrabad, District-Arwal.
- 1.2. Surendra Kumar, son of Late Bishambhar Prasad, resident of Village and Post Office Baidrabad, P.S.-Baidrabad, District-Arwal.
- 1.3. Birendra Kumar, son of Late Bishambhar Prasad, resident of Village and Post Office Baidrabad, P.S.-Baidrabad, District-Arwal.
- 1.4. Jitendra Kumar, son of Late Bishambhar Prasad, resident of Village and Post Office Baidrabad, P.S.-Baidrabad, District-Arwal.
- 1.5. Prakas Kumar, son of Late Bishambhar Prasad, resident of Village and Post Office Baidrabad, P.S.-Baidrabad, District-Arwal.
- 1.6. Ganesh Kumar, son of Late Bishambhar Prasad, resident of Village and Post Office Baidrabad, P.S.-Baidrabad, District-Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Arwal.
2. The Collector, Arwal.
3. Zila Parishad, Arwal through the Chief Executive officer Cum Deputy Development Commissioner, Arwal.
4. The Chief Executive Officer Cum Deputy Development Commissioner, Arwal.
5. The Circle Officer, Arwal.
- 6.1. Parwati Devi, Wife of Late Tes Lal Singh, resident of Village Tazan Bigha, PS-Rampur Chowk, District-Arwal.
- 6.2. Uday Singh, son of Late Tes Lal Singh, resident of Village Tazan Bigha, PS-Rampur Chowk, District-Arwal.
- 6.3. Vijay Singh, son of Late Tes Lal Singh, resident of Village Tazan Bigha, PS-Rampur Chowk, District-Arwal.
- 6.4. Ajay Singh, son of Late Tes Lal Singh, resident of Village Tazan Bigha, PS-Rampur Chowk, District-Arwal.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shravan Kumar, Sr. Advocate Mr. Krishna Kumar Singh, Advocate
For the Resp 6(a) to (d)	:	Mr. Rajendra Narain Singh, Sr. Advocate Mr. Sunil Srivastava, Advocate
For Zila Parishad	:	Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR



ORAL JUDGMENT

Date : 31-10-2023

Mr. Shravan Kumar, learned senior counsel appearing on behalf of the petitioners and Mr. Nikesh Kumar representing the Zila Parishad. Mr. Rajendra Narain Singh, learned senior counsel appearing on behalf of respondent no. 6(a) to 6(d).

2. The petitioner by invoking the extraordinary jurisdiction of this Court seeking quashing of the Letter No. 101 dated 28.02.2017 issued by the Chief Executive Officer, Zila Parishad Arwal, whereby the shop allotted to the petitioner was cancelled on the ground that he had breached the condition of the licence by selling the shop to one Tes Lal Singh for consideration amount of Rs. 32,000/-.

3. It is submitted on behalf of the petitioner that the shop, in question, was allotted to the petitioner *vide* letter dated 13.06.1996, after receipt of the consideration amount and thereafter he started running a grocery shop and was paying rent regularly up till January, 2017. However, all on a sudden, the petitioner was served with Letter No. 525 dated 01.09.2016 issued by the respondent no. 4 asking him to appear and explain the allegation that why he had sold the shop to one Uday Singh for a consideration amount of Rs. 32,000/-. He next submitted that the petitioner in response thereto submitted that the dispute



as occurred between the petitioner and Uday Singh has already been resolved and in fact Uday Singh resiled from the allegation and appeared before the respondent no. 4 and also submitted that the dispute stands resolved and thus, shop may be continued with the petitioner. It is also submitted that in token thereof, the rent has also been accepted till January, 2017. But despite the dispute having been resolved and the rent having been accepted by Zila Parishad all of a sudden, the petitioner was served with Letter No. 101 dated 28.02.2017 informing him that his allotment of shop stands cancelled on the ground that the petitioner had sold his shop to one Tes Lal Singh for consideration amount of Rs. 32,000/-.

4. Learned senior counsel while drawing the attention of the impugned order submits with all his vehemence that apart from the order being cryptic, the same has been passed behind the back of the petitioner without seeking any explanation or providing any opportunity of hearing. It is next submitted that Tes Lal Singh is none else but father of Uday Singh and earlier the allegation was levelled that the petitioner had sold the shop to Uday Singh, but subsequently alleged that the shop was sold in favour of Tes Lal Singh. He thus submits that had the petitioner sold the shop to Tes Lal Singh, then, Uday Singh



would not have resolved the dispute rather would have brought this fact to the notice of the authorities that the shop has been sold to his father. In support of the aforesaid submission, he further drew the attention of this Court to the Annexure-2 issued to the petitioner alleging therein that he had sold his shop to Uday Singh.

5. *Per contra*, learned counsel representing the Zila Parishad, with reference to the statements made in his counter affidavit submitted that the petitioner was not the original allottee of shop No. 20, as is evident from Annexure-1 to the writ petition itself. The materials on record including Annexure-1, *prima facie*, shows that the original allottee was Smt. Ram Priti Devi, who had been allotted to the shop, in question, in the year 1988 on a monthly rent of Rs. 100/- per month with a clear stipulation that she would not sublet to any other person. But later on when the rent became due to her for a long time since June 1990 to May 1996, it was found that the original allottee Smt. Ram Priti Devi has sublet the aforesaid shop to one Bishambhar Prasad (petitioner) on monthly rent of Rs. 200/- per month. In this way, the aforesaid shop, which was earlier settled in the name of smt. Ram Priti Devi, was settled to the petitioner on the same terms that he has to do business of his own and



would not sublet to anyone. It is further submitted that in the year 2016, the Zila Parishad has received the letter from Uday Singh, S/O Tes Lal Singh that the shop in question was being operated by him by virtue of one agreement dated 16.02.2005 by which the shop in question has been sold to him on 16.02.2005 and since then, the rent was being deposited by Tes Lal Singh/Uday Singh in the name of Sri Bishambhar Prasad. On receipt of the aforesaid complain, an inquiry was conducted by two men committee, who submitted their report that the shop in question is being operated by Sri Uday Kumar and a mobile shop is running therein. The matter has been placed before the Board and the Board in its meeting dated 29.11.2016 has resolved that both the settlees, who have sublet the shop of the Zila Parishad to another person and in respect of them, a fresh inquiry is conducted and after having been found the allegation of subletting true, a decision has been taken on 12.04.2017 for cancellation of their allotment. The photocopy of the proceedings of the Zila Parishad has been brought on record by way of Annexure-J to the counter affidavit.

6. Mr. Rajendra Narain Singh, learned senior counsel, who appears on behalf of the respondent no. 6(a) to (d), while supporting the contention of the Zila Parishad has further



submitted that the shop in question was purchased by father of respondent no. 6(b) on a consideration amount of Rs. 32,000/- and taking note of the aforesaid fact, now the shop has finally been settled in the name of the father of the respondent no. 6(b), namely, Sri Tes Lal Singh by fixing of rent @ Rs. 600/- per month and since then the respondent Tes Lal Singh and now his legal heirs are coming in the occupation of the shop in question. The aforesaid letter of settlement dated 27.06.2017 has been brought on record by way of Annexure-R-5 to the counter affidavit filed on behalf of respondent no. 6(a) to 6(d). He next submits that the settlement having been made in favour of the father of the respondent no. 6(b), has never been challenged by the petitioner, irrespective of the knowledge of the settlement of shop to the petitioner, all the more, bringing on record the letter of settlement, the copy of the counter affidavit has been served upon the writ petitioner, thus no relief can be granted to the petitioner.

7. This Court has heard the respective counsels for the parties and also perused the materials available on record.

8. *Prima facie*, from the record, it appears that the shop in question was initially allotted to one smt. Ram Priti Devi in the year 1988 with conditions, *inter alia*, not to sublet to



any person. However, subsequently the said smt. Ram Priti Devi, having become defaulter to pay rent of almost 72 months, had sublet the shop in question to the original petitioner on monthly rent of Rs. 200/- per month and the original petitioner deposited all the due rent to the Zila Parishad.

9. Taking note of payment of all the dues and cost of construction/repairing of shops, the same was settled to the original petitioner on the same terms that he had to perform his business on his own in the allotted shop, but once again the Zila Parishad has received a letter from Uday Singh, S/O Tes Lal Singh that the shop in question is being operated by him by virtue of an agreement dated 16.02.2005, by which the original petitioner Sri Bishambhar Prasad has sold the shop to the father of Uday Singh and since then they are depositing the rent to the Zila Parishad, in the name of Sri Bishambhar Prasad.

10. It is to be noted that when the inquiry was conducted, the Zila Parishad came to know that the complaint has substance as the shop in question was being operated by Sri Uday Singh. In view thereof, show cause notices have been issued to both the original petitioner as well as Sri Uday Singh. However, at no point of time, the finding of the enquiry has been questioned by the petitioner rather in response to the show



cause, they entered their appearance and only submitted that they have resolved the dispute.

11. The matter was rightly placed in the Board meeting of the Zila Parishad on 29.11.2016, wherein it has been resolved to enquire the matter afresh with a stipulation that, if the substance of the allegation is found true, fresh allotment should be made after cancelling their allotment. Even in subsequent inquiry conducted by Executive Engineer, DRDA, Arwal, it is found that the original petitioner has already sold the shop in question to Sri Tes Lal Singh and it is he who was running the shop. From the record, apparently there was breach of the terms of the allotment of shop in question and there is no infirmity found in the action of the respondents and the Zila Parishad has rightly passed the order cancelling the allotment of the shop made in favour of the petitioner. This Court does not find any justifiable reason to interfere in the order of cancellation of the shop in question.

12. It is also to be noted that fresh settlement of the shop has been made in favour of the father of the newly added respondent no. 6(b), namely, Tes Lal Singh by fixing the rate of rent @ 600/- per month way back in the year 2017 vide letter no. 287 dated 27.06.2017, but admittedly the same has not been



challenged till date. Thus, this Court of the opinion that there is no reason or occasion to unsettle the settled position, once the shop in question has been settled at new rate after following the procedures, all the more when the subsequent settlement has not been questioned by the petitioner.

13. In view thereof, this Court does not find any merit consideration in the present writ petition. Accordingly, the same stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.11.2023.
Transmission Date	NA

