

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10361 of 2018

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Kedar Prasad S/o Late Gulab Prasad, resident of Dighwara Shankarpur Road,
P.S.- Dighwara, District- Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Executive Officer, Nagar Panchayat Dighwara, Saran.
3. Sushant Kumar Vishwas, S/o Late Subal Chandra Vishwas, R/o Shaharpur Road Dishwar, P.S.- Dighwara, District- Saran.
4. Bappi Kumar Vishwas, S/o Sushant Kumar Vishwas Village- Dighwara Shankarur Road, P.S.- Dighwara, District- Saran.
5. Atal Bihari, S/o Late Ramjee Prasad Srivastava, Resident of Mirpur Bhawat, P.S. Dighwara, District- Saran.
6. Awadh Bihari Verma, S/o Late Ramjee Prasad Srivastava.
7. Bipin Bihari Verma, S/o Late Ramjee Prasad Srivastava.
8. Ravi Anand, S/o Late Ramjee Prasad Srivastava. Respondent no. 5-8, Village- Mirpur Bhual, P.S.- Dighwara, District- Saran.
9. Gauri Shankar Prasad, S/o Late Brida Sah, of Village Dighwara Shankarpur Road, P.S.- Dighwara, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anuj Kumar, Advocate
For the State	:	Mr. Raj Kishore Roy, GP 18
For the Nagar Panchayat Dighwara, Saran	:	Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 31-07-2023 Heard the parties.

2. The present petition has been preferred for the
following reliefs:-



a) a writ in the nature of certiorari or any other appropriate writ, order/s, direction quashing the order as contained in Letter No. 148 dated 26.03.18 issued by Respondent No. 2 directing the petitioner to vacate the premises in question i.e. house situated on land appertaining to Khata No. 503, Survey Plot No. 2782 Tazi 2977, ara 2 Katha 3 dhur on the ground that so called enquiry has been conducted behind the back of the petitioner and that provisions of Section 278 (2) have been violated;

b) a writ in the nature of mandamus or any other appropriate writ, order/S, direction commanding the respondents for the following

(i) to hold on enquiry into forged acquisition/purchase of land appertaining to Khata No. 503, Survey Plot No. 2782, Tazi 2977 area 2 Katha 3 dhur;

(ii) to hold that the proceeding was done and concluded in an illegal manner without compliance of Section 278 (2) of the Bihar Municipal Act 2007;

(iii) not to take any action u/s 278 (3)



and 278 (4) of the Act without giving an opportunity to the petitioner U/S 278 (2) of the Act.

3. The case of the petitioner is that he was residing in the building in question since long which was purchased by the respondent no. 4 on 20.04.2015.

4. It is his further case that instead of moving in an Eviction Suit, the respondent no. 4 moved before the Sub-Divisional Officer with the prayer that the building is in a very bad shape and needs to be demolished and accordingly, the order vide letter no. 148 dated 26.03.2018 was passed by the respondent no. 2, the Executive Officer, Nagar Panchayat, Dighwara, Saran directing the petitioner to vacate the building within a period of ten days so that the same could be demolished failing which action shall be taken against him. (Annexure-A to the petition).

5. It is the case of the petitioner that building is not in such a bad shape which reflects from the fact that the order was passed in 2018 and now its 2023 and still the building is standing there.

6. Learned Counsel appearing for the respondent no. 4, on the other hand, submits that even State has now come up with the counter affidavit to show that the building is not in a



good shape.

7. Learned State Counsel has brought on record the documents to show that it was only after the inspection of the building that the order in question was passed and as such, the same is perfectly justified.

8. There is/are claim and counter claim. On the one hand, respondent no. 4 is of the view that the building is in very bad shape and needs to be demolished while on the other hand, the petitioner's case is that the same is in good condition which reflects from the fact that from 2018 to 2023, nothing has happened to it.

9. In that view of the matter, it is appropriate that the respondent no. 2, the Executive Officer, Nagar Panchayat, Dighwara, Saran take a fresh look in the matter, have a fresh inspection report and only after hearing both the sides, pass a fresh order as the main contention of the learned Counsel for the petitioner is that he was not heard before the order in question was passed.

10. The said order has to be passed within a period of three months from today.

11. The order vide letter no. 148 dated 26.03.2018 passed by the Nagar Panchayat, Dighwara, Saran (now Nagar



Parishad, Dighwara) shall remain in abeyance till the fresh order is passed by the respondent no. 2 whereafter the order will merge with the fresh order passed by the respondent no. 2.

12. The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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