

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3987 of 2020

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Ram Udgar Rai @ Ram Udagar Ray, Son of Dhaneshwar Rai @ Dineshwar Ray, Resident of Village Bhore Sahpur, P.O.- Bhore, Police Station- Khanpur, District- Samastipur at presently Residing at Patheya Gacchi, Ward No. 23, Samastipur, P.S. and District- Samsatipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Samastipur.
2. The Sub Divisional Officer, Sadar, Samastipur.
3. The Executive Officer, Nagar Parishad, Samastipur.
4. The Officer in Charge, Town P.S. District- Samastipur.
5. Laxmi Devi, Wife of Ramashwar Sah, Resident of Mohalla- Bengali Tola, Ward No. 25, Samastipur, P.S. and District- Samastipur, at Present - Station Chowk, In-front of Rajiv Hotel, P.S. Town, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rana Sanjay Kumar Singh, Advocate
For the Respondent/s	:	Mr.Yogendra Prasad Sinha, AAG-7
For Nagar Parishad	:	Mr. Ashok Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 01-08-2023 Heard the parties.

The present petition has been preferred for the following relief:

(i) to issue an appropriate orders, direction's including a Writ preferably in the nature of Mandamus commanding and directing upon the Respondent No. 2 the Subs Divisional Officer, Samastipur to evict the Private Respondent from the Shop No. 41 situated at Station Chowk, Samastipur, has been forcibly occupied encroached by the



Private Respondent;

(ii) to direct the Respondent No. 2 the Sub Divisional Officer, Samastipur to restore the possession of the Shop of the Petitioner which has been settled in his favor by the Nagar Parishad, Samastipur since long and paying rent;

(iii) to direct the Respondent No. 2, the Sub Divisional Officer, Samastipur to provide and depute Magistrate alongwith the Police force to the Executive Officer Nagar Parishad, so that the Shop in question shall be evicted from the unauthorized possession of the Private Respondent;

(iv) to any other reliefs to which the petitioner may found entitled in the facts and circumstances of the case.

The contention of the petitioner is that the Executive Officer, Nagar Parishad, Samastipur (now upgraded as Municipal Corporation, Samastipur) wrote letter no. 1550 dated 21.9.2019 to the Sub Divisional Officer, Samastipur to get the shop no. 41 situated within Nagar Parishad, Samastipur vacated from the illegal occupants so that the petitioner is given possession of the said shop (Annexure-9 to the writ petition). It



is his contention that for four years, the Executive Officer (who is now the Municipal Commissioner of the Samastipur Municipal Corporation) has failed to get even his own order/prayer/communication executed.

Learned counsel appearing for the Samastipur Municipal Corporation has brought this Court's attention to the counter affidavit filed annexing memo no. 1203 dated 20.4.2023 to show that once again the Sub Divisional Officer, Sadar, Samastipur has been requested to get the shop vacated from the illegal occupants so that the same is handed over to the petitioner.

It is unfortunate that the request of the then Executive Officer, Samastipur, Nagar Parishad (now Municipal Commissioner, Samastipur Municipal Corporation) is/are not taken not seriously by the respondent no.2, the Sub Divisional Officer, Sadar, Samastipur.

In the aforesaid background, as the State has failed to file any counter affidavit for the obvious reasons that it cannot defend the inaction of the S.D.O., Sadar, Samastipur, this Court directs the Sub Divisional Officer, Sadar, Samastipur to immediately implement the request/communication lastly sent by the Municipal Commissioner, Samastipur Municipal



Corporation vide letter no. 1203 dated 20.4.2023 within a period of eight weeks from today failing which the petitioner shall be free to file a contempt petition against the said Sub Divisional Officer, Sadar, Samastipur.

Let a copy of the order be sent to the District Magistrate, Samastipur so that he can know how those under him/her are functioning.

The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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