

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4224 of 2022

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1. Anup Kumar S/o Late Ramkrishna Prasad Flat No. - A 404, Charminar Apartment, Road No. 12, Rajendra Nagar, Police Station - Gandhi Maidan, District - Patna.
 2. Radhe Shyam Agrawal, S/o Late Purushottam Das Agrawal Flat No. -A 406, Bansal Tower, Bhattacharya Road, Patna - 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Housing and Development Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Urban Housing and Development Department, Govt. of Bihar, Patna.
3. The Patna Municipal Corporation, through the Municipal Commissioner, Maurya Lok Complex, Bailey Road, Patna - 800001.
4. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok Complex, Bailey Road, Patna - 800001.
5. The Estate Officer, Patna Municipal Corporation, Maurya Lok Complex, Bailey Road, Patna - 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agrawal, Advocate
For PMC	:	Mr. Prasoon Sinha, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar (Sc-9)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 04-07-2023 Heard Mr. Nikhil Kumar Agrawal, learned counsel for the petitioners and Mr. Prasoon Sinha, learned counsel for Patna Municipal Corporation.

The present petition has been preferred for the following relief:

- (i) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the respondent authorities to carry out the



mutation in the land records and execute fresh lease deed with respect to Plot No. 309/B (Block B) admeasuring about 663.25 sq yards situated in Rajendra Nagar, Patna, in favour of the petitioners who are legitimate purchaser;

(ii) to issue an appropriate writ/order/direction in the nature of Mandamus declaring that the finding arrived at by this Hon'ble Court in C.W.J.C. No. 13886 of 2011 (upheld in LPA No. 512/2016 and SLP No. 12463/2018) with regard to non-payment of earned profit (Labhansh) would be applicable to the petitioners as well;

(iii) to issue an appropriate writ/order/direction in the nature of Mandamus directing the Respondents to grant No Objection Certificate to the Petitioners allowing the latter to carry out construction work at the said property;

(iv) to any other relief or reliefs for which the Petitioners are found entitled to in the facts and circumstances of the case.



It has been contended by the learned counsel for the petitioners that he has purchased the aforesaid land from Sanjay Singh and when the Patna Municipal Corporation stopped the mutation with the condition that such transfer can be allowed only after deposition of 50 per cent amount which he has earned on sale of the concerned land, aggrieved, C.W.J.C. No. 13886 of 2011 was preferred which was allowed on 10.7.2013.

His contention is that writ Court held that so far as the issue no.1 relating to payment part was concerned in view of Rule 20 of the PRDA (Disposal of land Rules 1978) it was incorporated that only if the transfer is made within 10 years from the date of execution of the lease in favour of the allottee, such charge can be taken and in absence, the same has wrongly been demanded by the PMC.

Aggrieved, 'the PMC' moved in LPA No. 512 of 2016 (Annexure-11) which was dismissed on the ground of delay on 13.12.2017 by a Division Bench.

Still aggrieved, SLP (C) No. 12463 of 2018 (Annexure-12) was preferred which too came to be dismissed on 14.5.2018.

Learned counsel for the petitioners submit that the PMC was duty bound not to demand any amount pursuant to the



aforesaid orders and as they were delaying the mutation process, the writ petition was preferred.

A counter affidavit has been filed duly put on affidavit by its Estate Officer in which the letter no. 17976 dated 30.12.2022 issued by the Patna Municipal Corporation has been annexed as Annexure-R-3/A by which the land has been mutated in favour of the petitioners.

As such, Mr. Prasoon Sinha submits that the grievance of the petitioners has been met.

I.A. No. 01 of 2023:

The aforesaid I.A. No. 01 of 2023 has been preferred by the petitioner for deleting the condition that has been put in the mutation order on the ground that unilaterally the condition cannot be imposed. It is his further apprehension that in the garb of said condition they may make demand, regarding 'Labhansh', at later stage which may jeopardize the further transfer of the land.

Mr. Prasoon Sinha opposes the prayer incorporated in the interlocutory application and it is his submission that its simply an illusion of the petitioner and the mutation has already been done.

The I.A. No. 01 of 2023 is without merit and



dismissed.

The CWJC No. 4224 of 2022 stands disposed of.

(Rajiv Roy, J)

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