

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4187 of 2023

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Madan Prasad @ Madan Lal, Son of late Basudeo Saw, R/o Mohalla-
Alamganj, P.S. Leheri, Bihar Sharif, District- Nalanda, PIN- 803101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Govt. of Bihar, Vikash Bhavan, Baily Road, Patna, PIN- 800001.
2. The Additional Secretary, Urban Development Department, Govt. of Bihar, Vikash Bhavan, Baily Road, Patna, PIN- 800001.
3. The Secretary, Urban Development Department, Govt. of Bihar, Vikash Bhavan, Baily Road, Patna, PIN- 800001.
4. The District Magistrate, District Collectariate Office, at Bihar Sharif, District- Nalanda, PIN- 803101.
5. The Municipal Commissioner, Bihar Sharif Nagar Nigam, District- Nalanda, PIN- 803101.
6. The Deputy Municipal Commissioner, Bihar Sharif Nagar Nigam, District- Nalanda, PIN- 803101.
7. The Tax Daroga, Ward No.- 36, Bihar Sharif Nagar Nigam, District- Nalanda, PIN- 803101.
8. The Tahsildar, Ward No.- 36, Bihar Sharif Nagar Nigam, District- Nalanda, PIN- 803101.
9. Jayraj Prasad son of late Mathura Prasad, r/o Mohalla- Alamganj, P.S.- Leheri, Bihar Sharif, District- Nalanda, PIN- 803101.
10. Geeta Kapoor wife of late Raj Kapoor, r/o Mohalla- Alamganj, P.S.- Leheri, Bihar Sharif, District- Nalanda, PIN- 803101.
11. Shashsi Kapoor son of late Mathura Prasad r/o Mohalla- Alamganj, P.S.- Leheri, Bihar Sharif, District- Nalanda, PIN- 803101.
12. Shammi Kapoor son of late Mathura Prasad r/o Mohalla- Alamganj, P.S.- Leheri, Bihar Sharif, District- Nalanda, PIN- 803101.
13. Kamal Kapoor son of late Mathura Prasad r/o Mohalla- Alamganj, P.S.- Leheri, Bihar Sharif, District- Nalanda, PIN- 803101.
14. Snehlata wife of late Ratan Kapoor, r/o Mohalla- Alamganj, P.S.- Leheri, Bihar Sharif, District- Nalanda, PIN- 803101.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jayram Sharma, Advocate
For the Respondent/s	:	Mr. Sayyid Hussain Majid, Advocate
For the Corporation	:	Mr. Gagan Prakash Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT



Date : 24-08-2023

Heard Mr. Jayram Sharma, learned counsel appearing on behalf of the petitioner and Mr. Gyan Prakash Ojha, learned counsel representing the Bihar Sharif Municipal Corporation. The State is represented by Mr. Sayyid Hussain Majid.

2. The petitioner by invoking the extra ordinary jurisdiction of this Court has preferred the present writ application for the following reliefs:-

(A). To issue rule in the nature of certiorari to quash the letter issued vide Memo No.-G-115 dated 19.01.2022 in connection with "Namantran Sambandhi Sudhi-Patra" passed by the learned Municipal Commissioner, Bihar Sharif Nagar Nigam, District- Nalanda (Annexure-6) whereby Municipal Tax in respect of bearing Holding No.-547, Area- 1692 Sq feet, Ward No.-36, Mohalla- Alamganj, P.S.- Lehari, Bihar Sharif, District- Nalanda, a direction has been given introduce the name of the heirs of late Mathura Prasad son of Baso Halwai i.e. Respondent No.- 09 to 14, as heirs over the Holding in question.

(B). To issue rule in the nature of certiorari to quash the order dated 21.12.2022 passed by the learned Municipal Commissioner, Bihar Sharif Nagar Nigam,



District- Nalanda (Annexure-8) whereby and where under the representation dated 27.04.2022 filed by the petitioner has been rejected with observation that it is matter of title and possession.

(C). To grant any other relief/reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.

3. It is vehemently submitted that the impugned order dated 21.12.2022 as well as order dated 19.01.2022 passed by the Bihar Sharif Municipal Corporation are *per se* illegal because the holding, in question, bearing holding No. 547 had been coming in joint possession of the parties after the death of the brother of the petitioner. It is further submitted that the impugned orders are in violation of the Section 137 of the Bihar Municipal Act, 2007 which stipulates that assessment in case of holding sub divided into separate shares. That apart, the Municipal Commissioner by the impugned order at one hand dismissed the representation dated 27.04.2022 and confirmed his previous order dated 19.01.2022 and directed to go before the concerned Court for title and possession.

4. At this juncture, learned counsel for the respondents submits that the petitioner has efficacious alternative remedy of appeal before the District Judge under Section 143 of the Bihar



Municipal Act.

5. Considering the submissions of the parties and the materials available on record, the present writ application stands disposed of with a direction to the petitioner to approach before the District Judge for ventilating his grievance and the reliefs prayed for, in the present application.

6. It is needless to say that in case the petitioner files such an appeal before the District Judge, the same shall be considered expeditiously and taking into account the fact that the petitioner has been pursuing his remedy before the Hon’ble Court and thus the delay, if any, shall be considered in the light of Section 14 of the Limitation Act.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2023.
Transmission Date	NA

