

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13299 of 2019

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Arun Kumar Son of Sri Balaram Prasad Singh Permanent resident of Mohalla- Lakhanchand, P.S. Mokama, District- Patna and at present residing at House No. 115/B, Gandhi Nagar, P.S.- Srikrishnapuri, Town and District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, Patna.
2. The Patna Municipal Corporation Maurya Lok Complex, P.S.- Kotwali, Town and District- Patna, through its Municipal Commissioner.
3. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok Complex, P.S.- Kotwali, Town and District- Patna.
4. The Director, Town Planning Patna Municipal Corporation, Maurya Lok Complex, P.S.- Kotwali, Town and District- Patna.
5. The Estate Officer, Patna Municipal Corporation, Maurya Lok Complex, P.S.- Kotwali, Town and District- Patna.
6. The Executive Engineer, Patna Municipal Corporation, Maurya Lok Complex, P.S.- Kotwali, Town and District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Sr. Advocate Mr. Amitabh Sohan, Advocate Mr. Ashutosh Ankit, Advocate
For the PMC	:	Mr. Prasoon Sinha, Advocate Mr. Amarnath Kumar, Advocate
For the State	:	Mr. Subhash Prasad Singh, GA-3

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

16 25-07-2023 Heard Mr. Ashok Kumar Choudhary, learned Senior Counsel duly assisted by Amitabh Sohan as also Mr. Amarnath Kumar, learned counsel for the Patna Municipal Corporation and the A.C to G.A.-3.

2. The present petition has been filed for the issuance of -



(a) a writ in the nature of certiorari for quashing the letter no. 7346 dated 8.6.2019 issued by the Director, Town Planning, Patna Municipal Corporation by which the Director, Town Planning has directed the petitioner to demolish and remove his Kiosk no.- 01 situated at Maurya Lok Complex within a week and if it has not been removed then it will be demolished by the department and expenses would be recovered from him;

(b) for a writ in the nature of mandamus commanding the Respondents to restore and reconstruct the Kiosk no. 01 of the petitioner which has been demolished by the order of Director, Town Planning Patna Municipal Corporation vide letter no. 7346 dated 8.6.2019;

(c) for a writ, order, or direction to the respondents to rehabilitate the petitioner for the illegal demolition of his Kiosk by the Patna Municipal Corporation.

3. The matter relates to demolition of Kiosk in Maurya Lok Complex. The number of persons having Kiosk found the same to be demolished by the Patna Municipal



Corporation one fine morning and thereafter, they approached this Court for an appropriate order.

4. So far as this petitioner is concerned, the lease period was from 08.11.2011 which was kept on renewing and was to come to an end on 08.11.2022.

5. The same was demolished on 16.06.2019 along with other kiosks.

6. One of the similar placed aggrieved persons had moved this Court in **C.W.J.C. No. 12297 of 2019 (Thakur Rama Raman Vs. The Patna Municipal Corporation & Ors.)** which was decided by a co-ordinate Bench of this Court on 01.10.2019 and the relevant observation is at paragraph 40 which read as follows:

“40. If the KIOSK is restored to the petitioner pursuant to the order of this Court, the petitioner shall be at liberty to seek the loss and damages for the alleged loss of business etc, for the intervening period from the date of demolition till the handing over of possession of the KIOSK again to the petitioner. Such claim for loss and damages may be brought before the competent Civil Court and the same will be considered by the Civil Court in accordance with law without taking into the



consideration any of the observations of this Court hereinabove. The petitioner would, however, be entitled for the cost component i.e. the cost of present litigation alone which is assessed at Rs. 1 lakh, the same will be payable to the petitioner within the aforesaid period of three months. The PMC/Corporation, Shall, however, be at liberty to proceed against and realise the compensation and cost amount from the erring officials in accordance with law.”

7. In that case also, the lease period was to come to an end in 2022.

8. Aggrieved, the Patna Municipal Corporation moved in LPA No. 165 of 2020 which was decided on 31.01.2023 and the Appellate Court held as follows :

“However, under the circumstances we find that the respondent was rendered out of business and thus out of his vocation which was the only source of his livelihood three years prior to the expiration of the lease. At best, he should have been returned proportionate amount of fee which remained unutilized.

We also find that the Corporation has shown unnecessary haste and did not even allow the respondent to remove his



belongings for which there was a litigation in the past but it was not taken to any logical conclusion.

True it is that a licensee cannot claim to remain a licensee for ever. In the present case, there does not appear to be any malafides on the part of the appellant on face of it, for the reason that all the kiosks in the set- off area of the Maurya Lok Complex has been demolished, in keeping with the requirement under the bye-laws. The loss of business to the respondent but cannot be the consideration for slapping a whopping amount of Rs. 5,00,000/- on the Corporation as a measure of recompense.

In our estimation, it would have sufficed if the licence fee for the three years would have been returned to the respondent as he was not at fault for the erection of the kiosk and his consequent occupation of the same. That there was some rancour generated at the haste shown by the Corporation in demolition of the kiosk; which led to litigation at various forums and the matter remains alive today as well because of the pendency of this appeal against the order passed by the learned Single Judge.

In our guesstimate, an amount of Rs. 3,00,000/- in all, inclusive of the cost of



litigation, would be rational and would serve the ends of justice.

The order passed by the learned Single Judge is therefore modified to the extent that now the Corporation shall pay to the respondent an amount of Rs. 3,00,000/- which shall be to his satisfaction towards all his dues and entitlements against the Corporation, subject to the caveat that all litigation, at all forums shall be withdrawn by the parties hereinafter.

With the aforementioned modification in the judgment and order dated 01.10.2019, the appeal stands disposed of.”

9. Both the petitioner and the Patna Municipal Corporation submits that this case is squarely covered by the order passed by the Writ Court as well as Appellate Court inasmuch as in this case also the lease period was upto 2022 and was demolished in 2019.

10. Taking into account the order passed by the Appellate Court in LPA No. 165 of 2020, this Court also directs the Patna Municipal Corporation to pay a sum of Rs. 3,00,000/- (Three Lakhs) to the petitioner which shall be the satisfaction towards all the dues and entitlements against the Corporation as also that the parties shall withdraw all the petitions against each



other hereinafter.

11. With the aforesaid observation, the writ petition stands disposed of.

(Rajiv Roy, J)

Jagdish/-Jyoti/-

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