

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23788 of 2018

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Md. Mustaq S/o Late Iliyas Resident of Village- Lakhminia, P.S. Balia,
District- Begusarai, at present Mohalla- Thana Road, Ward No. - 11, Hazipur,
P.S. District-Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Chairman, Nagar Parishad, Khagaria.
3. The Executive Officer, Nagar Parishad, Khagaria.
4. Sri Abhishek Kumar S/o Ajay Kumar Bhagat resident of Village- Hazipur,
Thana Road, Ward No.- 11, P.S. District - Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Roshan Kumar Mishra, Advocate
For the State	:	Mr. Indeshwari Pd. Mandal, AC to GA 3
For the Respondent/s	:	Ms. Deepika Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 11-07-2023 Heard the parties.

The present writ petition has been filed for the
following reliefs:-

(i) for quashing of the order dated 23.8.2018 passed
by the Executive Officer, Nagar Parishad in Name Transfer Case
No. 15-H/2018, whereby an order for entry of name Case No.
15- of Respondent no.4 in place of the petitioner in Holding No.
483, has been passed arbitrarily without appreciating the
material on record;

(ii) for restraining the private respondent to take any
benefit from the impugned order and also stay the operation of



the order impugned till the disposal of the present writ application.

It has been contended by the learned Counsel for the petitioner that he had produced his documents before the Executive Officer, Nagar Parishad, Khagaria, the same was not considered and an order was passed in favour of Respondent No. 4, Abhishek Kumar.

It is his further submission that armed with the said order, the respondent no. 4 has preferred Eviction Suit Case No. 01 of 2019 against him and due to said order, his case may be prejudiced.

Learned Counsel appearing for the Respondent No. 4 took this Court to section 143 of the Bihar Municipal Act, 2007, according to which once the decision has been taken by the concerned official under section 142 of the Act, the natural recourse for the petitioner was to move before the concerned District Judge in appeal and not in a writ jurisdiction. She however, confirmed that now the eviction suit is pending before the Civil Court, Khagaria where the petitioner can contest the matter.

This Court finds force in the submissions put forward by the learned Counsel for the Respondent No. 4. Further, the



petitioner as also the respondent no. 4 always have the liberty to produce all the documents in favour of their respective cases and the concerned Court has to decide the same without being prejudiced by any order passed in objection and strictly on merits.

So far as the present case is concerned, an order has been passed and the same can be appealed before the concerned Court, as pointed out by learned Counsel for the Respondent No. 4.

As the petitioner was contesting the matter in the Writ Court, if he prefers appeal, the said pendency be taken into account while deciding the limitation petition.

The writ petition stands disposed of with the aforesaid observations.

Before parting, the Court would like to put on record its word of appreciation for Ms. Deepika Sharma, learned counsel for the Respondent No. 4 for proper assistance rendered in the matter.

(Rajiv Roy, J)

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