

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17752 of 2022

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Basukinath Gupta @ Vasuki Nath, Son of Sri Daya Shankar Gupta @ Daya Shanker, Resident of Mohalla- Munim Chowk, P.S.- Buxar Town, Buxar, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The District Magistrate-cum-District Collector, Buxar, District- Buxar.
3. The Sub-Divisional Officer, Buxar Sadar, District- Buxar.
4. The Executive Officer, Buxar Nagar Parshad, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manendra Kumar Sinha with Mr. Navneet Kumar, Advocates
For the Respondent/s	:	Mr. Rajeev Kumar Sinha, AC to AAG- 7
For the N.P. Baxar	:	Mr. Ashok Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 26-09-2023

Heard Mr. Manendra Kumar Sinha, learned counsel for the petitioners and Mr. Ashok Kumar, learned counsel for the Nagar Parishad, Buxar. Mr. Rajeev Kumar Sinha, learned counsel representing the State is present.

2. The petitioner claimed himself to be an allottee of the shop constructed by the Nagar Parishad, Buxar filed the present writ petition seeking quashing of the Office Order, as contained in letter no. 2871 dated 17.10.2022, as also the modified notice, as contained in letter no. 2919 dated 18.10.2022, whereby the allotment of the shop of the petitioner



has been cancelled by the respondent no.4 and further directed to vacate the shop within a period of 15 days.

3. It is submitted on behalf of the petitioner that pursuant to the executed agreement between the petitioner and Nagar Parishad, Buxar way back on 28.10.2013, the petitioner has been allotted a shop, in question, for a period of 20 years on certain terms and conditions, as stipulated therein. He further contended that the petitioner has been coming in peaceful possession of the shop, in question, for over a period of 10 years on payment of fixed rent. However, all of a sudden, the respondent Nagar Parishad, Buxar came with the impugned office orders/notice (Annexures- 3 & 3/1) directing him to vacate the shop by cancelling the allotment.

4. A query has been made by this Court as to whether pursuant to office order no. 2052, dated 29.07.2022, whereby an explanation was sought for, as is gathered from the impugned office order, the petitioner had filed any response or not. He fairly submitted that from the materials available on record, and as per his instruction, the petitioner could not file the explanation. However, he further submits that there has never been any inspection in presence of the petitioner or if there is any so called inspection report, the same is



manufactured behind his back and, as such, the impugned notice directing to vacate the shop and cancelling its allotment is not sustainable.

5. A counter affidavit has been filed on behalf of respondent no.4. A categorical assertion has been made that the petitioner, in complete defiance of Clause 4 of the agreement, has made *Pucca* structure over the land, in question, allotted to him, which fact has also been verified during the course of inspection and moreover despite the show-cause notice issued vide letter no. 2052 dated 29.07.2022, the petitioner did not submit any reply, which resulted into impugned order.

6. Learned counsel for the Nagar Parishad also drew the attention of this Court to the photographs of the shop annexed in the counter affidavit and submitted that from the photograph, it appears that permanent structure has been constructed and thus it is in utter violation of the terms as contained in Clause 4 of the agreement.

7. Considering the submissions made on behalf of the parties and taking note of the fact that the petitioner has neither submitted his explanation to the show-cause notice, as contained in letter no. 2052 dated 29.07.2022, before passing the impugned order, nor the petitioner has made



any denial of the averments made in the counter affidavit filed on behalf of Municipal Corporation, this Court does not find any merit in the present writ application.

8. Accordingly, the writ application stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.09.2023
Transmission Date	NA

