

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1289 of 2023

-
-
1. Sanjay Kumar Singh, son of Sri Nathuni Singh, Resident of Mohalla-Koirpurwa, Near Buxar Station Road, P.S.- Buxar (Town), Buxar, District-Buxar.
 2. Anand Kumar Singh @ Anand Singh, S/o Late Virendra Kumar Singh, Resident of P.P. Road, Buxar, P.S.- Buxar (Town), 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

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

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 petitioners claimed themselves to be bonafide allottees of the shops, in question, filed the present writ application for the following reliefs:

*“i. To issue a writ of mandamus
and quash the office order under notification
dated 17.10.2022 and modified notice dated*



18.10.2022 by which the allotment of place / land/shop has been cancelled by the Respondent no. 4 without any cogent reason in a very arbitrary and malafide manner.

ii. To direct the respondents for not to evacuate the place/Land/ shop of petitioners pertaining to Khata no. 509, Plot No. 542 of total area 10' x 8' 80 sq.ft. as well as 50' x 40' = 2000 sq.ft. situated near North side of Red Cross Society building, Old Bus Stand, Buxar, District- Buxar, which were duly allotted to the petitioners in the year 2013 on the basis of a provisional allotment letter-cum- agreement of tenancy executed by the Executive Officer, Nagar Parisad, Buxar, Respondent No. 4.

iii. For a direction to the respondent authorities and to restrain evacuation of the place/shop of petitioners on the frivolous and baseless ground of illegal permanent (Pakka) construction of their respective shops and thereby violation of clause 4 of the allotment deed (Agreement for tenancy) without proper verification of the said place.

iv. For stay of the operation of notices dated 17.10.2022/18.10.2022 issued by the respondent no. 4 and during pendency of the writ application status quo till further order of the Hon'ble High Court.

v. For any other relief or reliefs to which the petitioners are entitled too."

3. It is contended on behalf of the petitioners that



pursuant to the executed agreements entered into between the petitioners and Nagar Parishad, Buxar, respective shops were allotted to the petitioners way back in the year 2013 with certain terms and conditions. The aforesaid allotment was made for 20 years.

3. It is the case of the petitioners that they have been coming in continuous possession of the shops, in question, in terms of the conditions stipulated in the agreement and at no point of time any *Pucca* structure or reconstruction has been made. However, all of a sudden on 22.07.2022 notices have been issued from the office of respondent no.4 to both the petitioners alleging violation of Clause- 4 of the agreement. An explanation was also called for from the petitioners regarding the alleged permanent construction of cemented wall. In response thereto, the petitioners have submitted their explanation, but surprisingly, once again office orders contained in letters no. 2873 and 2875 dated 17.10.2022 were issued to the petitioners directing them to vacate the allotted shops within 15 days by cancelling their allotment on account of alleged violation of Clause- 4 of the allotment letter-cum-agreement.

4. A counter affidavit has been filed on behalf of the Nagar Parishad, Buxar and with reference thereto submission



has been made that on physical verification, it has been found that *Pucca* construction has been made by the petitioners in complete violation of the terms of the agreement and, as such, notices have been issued upon the petitioners and after having found their explanation unsatisfactory, the impugned office orders have been issued, cancelling their allotment agreement and further directed to vacate their premises.

5. At this stage, learned counsel for the petitioners drew the attention of this Court to the order of learned coordinate Bench dated 05.07.2023, passed in C.W.J.C. No. 17325 of 2022. On the strength of the aforesaid order, he submits that in a matter of identically situated shopkeeper, the learned Court after taking note of the fact that inspection was not conducted in presence of the petitioner nor his written explanation, in response to the notice, was considered, remitted the matter to the authorities concerned giving liberty to the petitioner to file fresh explanation with a direction to the respondent authorities to get the land measured, prepared a report and pass final order after considering the explanation of the petitioner.

6. Having considered the materials available on record and the submissions advanced on behalf of the parties,



the present writ petition stands disposed of in terms of the order dated 05.07.2023, passed in C.W.J.C. No. 17325 of 2022.

7. It is needless to observe that in case the petitioners file fresh explanation along with the order of this Court before the Executive Officer, Nagar Parishad, Buxar, the same shall be considered and disposed of within a period of three months from the date of submission of the explanation. It is also made clear that the authorities would be under obligation to get the shops inspected and prepare a fresh report/map and after hearing the parties shall pass a fresh order.

8. In view of the aforesaid observations, the impugned office order nos. 2873 and 2875 dated 17.10.2022 and also amended letter no. 2919 dated 18.10.2022, are hereby set aside.

9. The present writ petition stands disposed of.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2023
Transmission Date	NA

