

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18265 of 2022

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1. Ekbal Ahmad Son of Md. Yunus Resident of Mohalla- Takkar More, Gudari Bazar, P.S.- Bhagwan Bazar, District- Saran at Chapra.
 2. Mansur Quraishi, Son of Shamashul Hoda Quraishi, Resident of Village- Daulatganj, Chik Toli Masjid, P.S.- Bhagwan Bazar, District- Saran at Chapra.
 3. Maula Ali Ansari, Son of Md. Saddik Ansari, Resident of Mohalla- Ajayeb Ganj, P.S.- Bhagwan Bazar, District- Saran at Chapra.
 4. Kanhaiya Ram, Son of Uma Shankar Ram, Resident of Mohalla- Nabiganj, P.S.- Bhagwan Bazar, District- Saran at Chapra.
 5. Rakesh Kumar, Son of Parshuram Singh, Resident of Mohalla- Gudari Bazar Chhawani, P.S.- Bhagwan Bazar, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Bihar, Patna.
2. The Commissioner, Saran Division, Saran at Chapra.
3. The Commissioner, Chapra Nagar Nigam, Chapra.
4. The Deputy Commissioner, Chapra Nagar Nigam, Chapra.
5. The District Magistrate, Saran at Chapra.
6. Smt. Kiran Devi, Wife of Shambhu Prasad, Resident of Muhalla- Daulatganj, near Takkar More, P.S.- Bhagwan Bazar, Dist.- Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dewendra Narayan Singh, Adv.
For the Resp-State	:	Mr. Kinkar Kumar, SC-9
		Mr. Yogesh Kumar, Adv.
For the Chapra Nagar Nigam	:	Mr. Indu Bhushan, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 18-08-2023

Heard Mr. Dewendra Narayan Singh, learned counsel
for the petitioners and Mr. Indu Bhushan, learned counsel for
the Chapra Nagar Nigam. The State is represented by Mr.
Yogesh Kumar, learned counsel.



2. The petitioners, who were said to be allottee of the shops bearing part shops no. 6D1 to 6D5, in the market of Nagar Nigam Chapra, situated at Gudri Bazar, Chapra, have preferred the instant writ application seeking *inter alia*, quashing of the order contained in Memo No. 2735 dated 09.12.2022, passed by the Commissioner, Nagar Nigam, Chapra (as contained in Annexure-32) whereby the petitioners have been directed to vacate their respective shops situated at Gudri Bazar within a period of 24 hours from the date of receipt of the said order, failing which a direction was issued to get the goods/articles kept inside the shops auctioned.

3. *Prima facie*, the order impugned in the present writ application appears to be consequential to the order contained in letter no. 590 dated 17.03.2021 passed by the Commissioner, Chapra Nagar Nigam, Chapra against which earlier the petitioners had preferred C.W.J.C. No. 8835 of 2022 before this Court, which was disposed of vide order dated 22.09.2022 with a liberty to the petitioners to assail the order before the Civil Court.

4. It is fairly submitted on behalf of the petitioners that in deference to the order of this Court, the petitioners served a notice upon the respondent no.3 under Section 377 of the



Bihar Municipal Act, 2007, preceding filing of the civil suit. After completion of the required period of thirty days, the petitioners filed Title Suit No. 1124 of 2022 for setting aside the order contained in letter no. 590 dated 17.03.2021 before the court of learned Sub-Judge-I, Saran at Chapra. It is further contended that the petitioners also filed an application in the aforesaid title suit with a prayer of mandatory injunction for directing the respondent-authorities to get opened the seal of the shops of the petitioners and to allow them for running of business in their respective shops. However, during the pendency of the aforementioned application, the respondent no.3 again came up with the present impugned order contained in Memo No. 2735 dated 09.12.2022, directing the petitioners to vacate their respective shops, failing which their goods or articles kept inside the shops would be subjected to auction.

5. *Per contra*, learned counsel for the respondent no.3 submits that since the matter is already sub judice before a court of competent jurisdiction and moreover the petitioners are pursuing their remedy bonafidely and the injunction petition is pending consideration, any interference in the matter would be uncalled for.

6. Having heard the parties and taking into



consideration the fact that pursuant to the direction of the Division Bench of this Court, the petitioners have been bonafidely pursuing their remedy and the injunction petition filed on their behalf is already pending consideration and the Civil Court has ample power under Section 395 of the Bihar Municipal Act, 2007 to deal with the issue raised before this Court, which is an offshoot of the order contained in letter no. 590 dated 17.03.2021, this Court refrains from issuing any direction in the matter.

7. Accordingly, the present writ application is disposed of granting liberty to the petitioners to file application for urgent hearing before the learned court of Sub-Judge-IX, Saran at Chapra, where the Title Suit is pending for consideration.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19-08-2023
Transmission Date	

