

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19747 of 2018

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Ajay Kumar Son of Shri Nagarmal Dhartipakar, Resident of N.H. 77, Raja Ram Kiratpur, Bhagwanpur, P.O.- Bhagwanpur, P.S.- Bhagwanpur, District- Vaishali, Pin- 844114 presently residing at Jaynit House, S.P. Verma Road, P.O.- G.P.O., P.S.- Gandhi Maidan, District and Town- Patna, Pin- 800001, Bihar.

... .. Petitioner/s

Versus

1. The Patna Municipal Corporation
2. The Municipal Commissioner, Patna Municipal Corporation, Block-C, Maurya Lok, Patna- 800001, head o
3. The Estate Officer, Patna Municipal Corporation having its head office at Buddha Marg, Police Stati
4. The Specially Empowered Committee of the Patna Municipal Corporation represented through its Town Se

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Ravish, Advocate
		Mr. G.K. Agrawal, Advocate
For the Respondent/s	:	Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 17-07-2023 Heard Mr. Kumar Ravish, learned Counsel for the petitioner and Mr. Prasoon Sinha, learned Counsel appearing for the Patna Municipal Corporation.

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

i) to quash and set aside (Annexure P/6) i.e. a Letter



No. 5807 dated 19.07.2018 issued by the Estate Officer of Patna Municipal Corporation issued under the orders of the Municipal Commissioner, Patna Municipal Corporation (henceforth for short 'the PMC') passed in the connected file, whereby and whereunder the consent of the petitioner was sought for that in case he is ready to accept the allotment of a plot in Block -B-71 admeasuring 3000 sq.ft. in Transport Nagar, Patna, he will have to pay an additional sum of Rs. 70,13,140/- (Rupees Seventy Lakhs Thirteen Thousand One Hundred Forty) only for 1250 sq. ft. of the plot;

ii) to quash and set aside the resolution dated 20.04.2018 (Annexure-P/5) circulated under memo no. 4054 dated 28.05.2018 with respect to the present petitioner (as contained at internal page 6 thereof under Head No. 7, Proposal No. 129) wherein it was decided to allot plot situated at B-71 admeasuring 3000 sq. ft. with further decision to demand from this petitioner, market value in excess of 1750 sq. ft. i.e. for 1250 sq. ft.;

iii) to direct for allotment of the plot in question without charging current market rate, rather on the same rate on which 1750 sq. ft. plot was allotted by the Corporation way back in the year 2004;



iv) to direct for payment of cost throughout this litigation.

3. It is the case of the petitioner that pursuant to the application made before the respondent authorities, he was allotted a Plot No. D/69 (1750 sq. ft.) in the year 2004 and pursuant thereto, between 2004 to 2011, Rs. 9,66,149/- (Rupees Nine Lakhs Sixty Six Thousand One Hundred Forty Nine only) was paid. Thereafter, a registered lease deed was executed between the parties relating to the said Plot No. D/69, Transport Nagar for a period of 66 years commencing from 18.01.2012 (Annexure P/1 to the writ petition).

4. After the execution of lease deed the petitioner tried his level best to take possession of the land but due to the encroachment/dispute over the title of the plot in question, the respondent authorities were unable to provide him the actual possession.

5. This forced him to file CWJC No. 16802 of 2013 which was disposed of on 24.03.2017 with the direction to the respondent authorities to provide him an alternate equivalent plot.

6. The relevant part of the said order dated 24.03.2017 is incorporated hereinbelow:-



“5. Having regard to this factual aspect, the Court is of the opinion, that as the petitioner is a valid allottee having fulfilled his obligation of making payment as required by the Patna Municipal Corporation, he is entitled to an equivalent plot. However, since the change would require the matter to be considered by the Transport Nagar Plots Allotment Committee of the Patna Municipal Corporation, the writ petition stands disposed off with a direction to such Committee to consider the matter of allotting an equivalent plot to the petitioner in place of what has been allotted to him earlier. Let such decision be taken within two months from the date of production of a copy of this order before the Municipal Commissioner, Patna Municipal Corporation, in accordance with law.”

7. It is the case of the petitioner that thereafter he represented before ‘the PMC’ to allot him a dispute free land in the light of the High Court’s order (Annexure P/3 of the writ petition).

8. This followed contempt petition and thereafter Plot No. B-71 (3000 sq. ft.) was allotted to him with a direction to pay Rs. 70,13,140/- (Rupees Seventy Lakhs Thirteen Thousand and One Hundred Forty) for the additional 1250 sq. ft. The same was communicated vide letter no. 5807 dated 19.07.2018



(Annexure P/6 to the writ petition).

9. It is the case of the petitioner that he had already paid the amount for 1750 sq. ft. whereafter the lease deed was executed. However, the respondent authorities failed to give him the possession, has already suffered and now just to delay the process he is being offered 3000 sq. ft. with additional demand of Rs. 70,13,140/- which he is unable to pay and thus he may be allotted only 1750 sq. ft. out of it or any other plot having 1750 sq. ft. as per the directions earlier made in CWJC No. 16802 of 2013.

10. A counter affidavit has been filed on behalf of 'the PMC' in which it has only been incorporated about the earlier allotment of the Plot No. D/69. However, in the opinion of the Court, now that allotment already got merged with the order of the Patna High Court in CWJC No. 16802 of 2013 by which a direction was given to allot the different plot with the same dimension.

11. In paragraph 4(xii) of the reply, it has been stated that in absence of 1750 sq. ft., a new plot which has an area of 3000 sq. ft. has been made available to him in Block- B-71 but for which he has to pay additional amount of Rs. 70,13,140/- as it is above 1750 sq. ft. to the tune of 1250 sq.ft.



12. This Court fails to understand the attitude of 'the PMC'. For almost a decade to be precise from 18.01.2012, when the lease deed was executed, the petitioner is running from pillar to post for valid possession of the plot and in the process, 11 years out of 66 years lease period has already lapsed.

13. Further, when the petitioner knocked the doors of this Hon'ble Court in CWJC No. 16802 of 2013, a clear order was passed on 24.03.2017 directing the respondent- Patna Municipal Corporation to provide him an equivalent plot. Certainly, the petitioner cannot be forced to cough up additional Rs. 70,13,140/- on the ground that the only plot available is 3000 sq. ft. for which he will have to pay for 1250 sq. ft.

14. This in the background of the fact that the petitioner has repeatedly shown his inability to pay such a big amount which reflects from the protest petition preferred by him on 31.07.2018 which was never considered.

15. In view of the aforesaid facts and circumstances, this Court is of the opinion that 'the PMC' is duty bound to follow the earlier order of this Court in CWJC No. 16802 of 2013 by providing the petitioner an equivalent plot (of 1750 sq. ft.).

16. Accordingly, this Court directs 'the PMC' to see to



it that a plot admeasuring 1750 sq. ft. in Transport Nagar is allotted to him and in its absence 1750 sq. ft. out of the present 3000 sq. ft. be carved out from Plot No. B-71 as it cannot force the petitioner to pay the amount it has demanded even when he is unable to pay.

17. The aforesaid exercise should be completed immediately and not before three months from today, when the physical possession of the land allotted by 'the PMC' will be made over to the petitioner.

18. The writ petition stands allowed with the aforesaid observations.

(Rajiv Roy, J)

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