

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2912 of 2020

Ashok Sah S/o Radhey Shayan Sah R/o Mohalla - Mahboob Khan Tola, P.S.
and District - Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Collector, Purnea, District- Purnea.
3. The Deputy Development Commission (D.D.C.), Purnia.
4. The S.D.O. Sadar, Purnea.
5. The C.O., Purnea Sadar.
6. The B.D.O., Purnea Sadar.
7. The Sr. S.P., Purnea, District Purnea
8. Thana Adhayaksh (Amit Kumar), Khajanchi, Police Station, District- Purnea.
9. Subodh Kumar Gupta S/o Radheshyam Sah R/o- Mohalla- Mahaboob Khan Tola, P.S. and District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar No. 1, Advocate
For the Respondent/s	:	Mr. Subash Chandra Yadav (GP15)
		Mr. Dhurjati Kumar Prasad, Advocate
		Mr. S.K. Das, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 19-01-2023

Heard Mr. Arun Kumar No. 1, learned Advocate for
the petitioner, Mr. Dhurjati Kumar Prasad for respondent/State
and Mr. S.K. Das for respondent no. 9.

The petitioner and respondent no. 9 are own
brothers. The dispute relates to a shop erected by the



respondent State on the *Khas Mahal* property. The shop was let out in the name of respondent no. 9. However, the petitioner had been running the shop with the consent of respondent no. 9. There had been a family partition and according to the petitioner, in the arrangement made in the family for distribution of the assets, respondent no. 9 acquiesced that the shop should continue to be run by the petitioner. Later, Respondent no. 9 made a complaint before the Public Grievance Redressal Cell that notwithstanding the registration of the shop in the name of respondent no. 9, the petitioner had been illegally occupying the same.

The matter was inquired into by the Public Grievance Redressal Cell and the First Appellate Authority viz. the Commissioner was of the view that since the registration of the shop was in the name of respondent no. 9 and not the petitioner and there was nothing on record to indicate that respondent no. 9 had acquiesced in the family arrangement of partition that the petitioner shall continue to remain in occupation of the shop, there was no way in which the petitioner could have been allowed to continue in the shop.



Considering such factual situation, the Commissioner, the First Appellate Authority directed the concerned officer of the district to have the possession of the shop restored to respondent no. 9.

This is what has been challenged by the petitioner.

We have perused the records.

None of the parties in the first instance had brought any document suggesting registration in the name of respondent no. 9.

However, Mr. Dhurjati Kumar Prasad learned counsel for the State by inviting our attention to the complaint made by the petitioner in that regard asserted that it was the case of the petitioner himself that the petitioner had got a shop registered in the name of respondent no. 9.

In this view of the matter, we have no other material to accept the cause of the petitioner when we have found that before the Commissioner/First Appellate Authority of the Public Grievance Redressal Mechanism, both the parties were present and it could not be conclusively proved by the petitioner that the shop was registered in his name.



We have also perused Annexure-1 which is the registration of the shop in the name of the petitioner for running a sweet shop under the name and style of ‘Akanchha Sweets’. This shop but has been registered in the name of the petitioner which is being carried out from the space which was allotted in the name of respondent no. 9.

The petition is thus dismissed.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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