

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25405 of 2019

1. Shankar Prasad Singh S/o Jawahar Prasad Singh Resident of Village-Jhapaniya, P.S. Baunsi, District- Banka.
2. Rajesh Kumar Singh S/o Sharwan Kumar Singh Resident of Village-Jhapaniya, P.S. Baunsi, District- Banka.
3. Birendra Kumar Singh S/o Moti Prasad Singh Resident of Village-Jhapaniya, P.S. Baunsi, District- Banka.
4. Rekha Devi Wife of Late Nakul Thakur Resident of Village- Pandatola, P.S. Baunsi, District- Banka.
5. Bageshwar Prasad Singh S/o Bimleshwari Prasad Singh Resident of Village- Jhapaniya, P.S. Baunsi, District- Banka.
6. Anjani Singh Wife of Arun Kumar Singh Resident of Ramayan Chitra Mandir, Nawagarh, P.S. Barora, District- Dhanbad (Jharkhand).
7. Umesh Pal Singh S/o Ram Pal Singh Resident of Village- Barmaniya, P.S.- Baunsi, District- Banka.
8. Harish Kumar Kedia S/o Kanhaiya Lal Kedia Resident of Village-Bhaya Bhitha (Kasba Mandar), P.S. Baunsi, District- Banka.
9. Manish Kumar Kedia S/o Harish Kumar Kedia Resident of Village-Bhaya Bhitha (Kasba Mandar), P.S. Baunsi, District- Banka.
10. Ajit Kumar Singh S/o Anand Mohan Singh Resident of Village- Meena Bazar Colony, Baunsi P.S. Baunsi, District- Banka.
11. Uday Kumar Singh S/o Jawahar Prasad Singh Resident of Village-Jhapaniya, P.S. Baunsi, District- Banka.
- 12.1 Niru Singh aged about 67 year's wife of Late Bageshwar Prasad Singh
- 12.2 Mansih Singh aged about 39 year's son of Late Bageshwar Prasad Singh
- 12.3 Ashish Kumar Singh aged about 37 year's son of Late Bageshwar Prasad Singh

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Vikash Bhawan, New Secretariat, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Vikash Bhawan, New Secretariat, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Banka.
4. The District Board, Banka through The Deputy Development Officer-cum-Chief Executive Officer, District Board, Banka.
5. The District Board, Banka through the DDC-cum-CEO, District Board, Banka.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad, Advocate
For the Respondent/s : Mr. Ajay, GA 5

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 03-07-2023

I.A. No. 02 of 2022

The aforesaid interlocutory application has been preferred for substituting the legal heirs of petitioner no. 5, Bageshwar Prasad Singh who died on 17th of April, 2021.

The name of the heirs have been incorporated in paragraph 2 of the petition.

There is no opposition from the other side.

In that view of the aforesaid facts, I.A. No. 02 of 2022 is allowed, the names of newly substituted heirs be incorporated as petitioner nos. 12.1, 12.2 and 12.3 in place of petitioner no. 5 namely, Bageshwar Prasad Singh.

CWJC No. 25405 of 2019

The present petition has been preferred for the following reliefs:-

(i) to issue an appropriate writs)/order(s)/direction(s) in the nature of writ of Certiorari for quashing the different letters issued by the respondent no.4 vide his one letter no. 569 all dated 26.11.2019 (as contained in Annexure-3 (series) to this writ application), whereby and where under the respondent no.4 has unilaterally enhanced the rent of the different shops allotted to



the petitioners ignoring the terms and conditions of the Rent Agreement.

(ii) to issue an appropriate writ(s)/order(s)/direction(s) in the nature of writ of Mandamus directing the respondents to take an appropriate decision of enhancement of rent of the shops of the petitioners by holding proper meeting with the shopkeepers as provided in Clause-10 of the rent agreements executed under the signature of the respondent no.4 and the petitioners.

(iii) to issue an appropriate writ(s)/ order(s)/ direction(s) in the nature of writ of Mandamus directing the respondents not to disturb the peaceful possession of the petitioners of the shops in question till the final decision with regard to enhancement of rent is taken in terms of the agreements between the parties.

After some argument, learned Counsel for the petitioners submit that now they are paying the enhanced rent as fixed by the respondent no. 4, the District Board, Banka and thus their prayer is/are limited to the extent:-

(i) to execute the agreement/renew the same which has not been done by the respondent no. 4, the Deputy Development Officer-cum-Chief Executive Officer, District



Board, Banka ;

(ii) the rent fixation be done by the Rent Controller and they will abide by the decision passed by him.

Till then, they undertake to pay enhanced rent.

The District Board is unrepresented and it is not clear whether copies were served upon it or not. The State is represented and has assisted the Court and further submits that if the matter is sent to the Rent Controller, the same shall be considered and decision will be taken expeditiously.

Learned Counsel for the petitioners further submit that although the rents are being enhanced, there is absence of basic amenities.

The respondent no. 4, the District Board, Banka is duty bound to provide the basic amenities to the shopkeepers and as such, separate washrooms for the women and men should be constructed, if still not there. Further, the shopkeepers are also entitled for having a proper drinking facility in the premises.

The aforesaid exercise shall be completed within a period of three months.

In that view of the matter and fair submissions put forward by the learned Counsel for the petitioners, the following



order is/are being passed:-

(i) the Deputy Development Officer-cum-Chief Executive Officer, District Board, Banka shall ensure that once the petitioners appear before him, the necessary documents are signed and if the same have been submitted to take a decision preferably within a period of eight weeks and when the respondent officials are accepting the month to month rent, as claimed by the learned Counsel for the petitioners, is duty bound to pass an appropriate order accordingly;

(ii) thereafter, the respondent no. 4 shall further refer the matter to the Rent Controller, Banka (Sub-Divisional Officer, Sadar, Banka) who shall take up the case and pass an appropriate order preferably within a period of three months from the receipt of the reference in accordance with law.

Till then, the petitioners undertake to pay the rent fixed by the District Board regularly. It is made clear that the petitioners will have to clear the entire rent before they submit representation(s) before the District Board.

Accordingly, the writ petition stands disposed of.

(Rajiv Roy, J)

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