

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3906 of 2020

1. Jay Prakash Mandal, Son of Dinesh Mandal, Resident of Madhusudan Nagar, Post and Police Station- Bausi, District- Banka.
2. Amresh Kumar Singh, Son of Subhash Chandra Singh, Resident of Village- Jhapaniya, Post and Police Station- Bausi, District- Banka.
3. Dilip Kumar Das, son of Munni Lal Das, Resident of Village- Ram Nagar Daliya, Post and Police Station- Bausi, District- Banka.
4. Basudeo Yadav, Son of Parmanand Yadav, Resident of Village- Daliya, Post and Police Station- Bausi, District- Banka.
5. Manas Kumar Dutta, Son of Vijay Kumar Dutta, Resident of Belan Bazar Quarter No. 40 Munger, Dist- Munger.
6. Pranay Ghosh @ Dr. Pranay Ghosh, Resident of Village- Daliya, Post and Police Station- Bausi, District- Banka.
7. Zahrul Bari @ Md. Zahrul Bari @ Md. Zaharul Bari, S/o Islam, R/O Mahrana, P.O. Oria, Distt.- Banka Bihar.
8. Anil Kumar Poddar, Son of Giridhar Poddar, Resident of Thana Colony Bausi, Post Office and Police Station- Bausi, District- Banka.
9. Manoj Kumar Munna, Son of Anup Lal Yadav, Resident of Village and Post- Bagdumma, Police Station- Bausi, District- Banka.
10. Deepak Kumar Jha, Son of Umakant Jha, Resident of Village- Daliya, Police Station- Bausi, District- Banka.
11. Rajesh Kumar Bajaj, Son of Jay Prakash Bajaj, Resident of Village- Babudih, Marwari Tola Bausi, Post Office and Police Station- Bausi, District- Banka.
12. Mukesh Kumar Yadav @ Rajendra Kumar Yadav, Son of Girish Prasad Yadav Resident of Village- Sirany, Post and Police Station- Bausi, District- Banka.
13. Subodh Kumar Chaudhary Son of Late Dhananjay Prasad Chaudhary Resident of Village- Sirany, Post and Police Station- Bausi, District- Banka.
14. Arbind Kumar Poddar Resident of Village- Thana Colony Bausi, Post Office and Police Station- Bausi, District- Banka.
15. Sharvan Kumar Yadav Son of Ganouri Yadav Resident of Village- Tatariya, Post and Police Station- Bausi, District- Banka.
16. Kiran Devi Wife of Sharvan Yadav Resident of Village- Tetariya, Post and Police Station- Bausi, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Director Panchayati Raj Department, Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Bihar, Patna.
3. The Commissioner, Bhagalpur Division, Bhagalpur.



4. The District Magistrate, Banka.
5. The Banka District Board through Deputy Development Commissioner cum Chief Executive Officer, Banka.
6. The Sub- Divisional Magistrate, Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Murlidhar Mishra, Advocate
For the Respondent/s	:	Mr. Rakesh Kumar Ranjan, AC to GA-5
For the Nagar Parishad	:	Mr. Bindeshwar Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 24-08-2023

Heard Mr. Murlidhar Mishra, learned counsel appearing on behalf of the petitioners and Mr. Bindeshwar Kumar, learned counsel for the Nagar Parishad, Banka. The State is represented by Mr. Rakesh Kumar Ranjan, learned AC to GA-5.

2. The petitioners are allottees of the shops, situated within the District Board, Banka seeks quashing of the letter no. 569 dt. 26.11.2019 under the signature of Deputy Development Commissioner cum Chief Executive Officer, District Board, Banka Respondent No. 5 under which monthly rent has enhanced relating to the petitioners shops and further threatened to vacate the same under the said letter and for issuance of a writ/order/direction, directing the respondents not to interfere with continuous possession / running shop as allotted to them.



3. Learned counsel for the petitioners submitted that the petitioners have entered into an agreement with the District Board, Banka and after fixation of their respective monthly rent, they have been coming in the possession of the allotted shops. However, all of a sudden, in the year 2019, by the impugned letter no. 569 dated 26.11.2019, issued under the signature of Deputy Development Commissioner-cum-Chief Executive Officer, District Board, Banka, the monthly rent of the shops allotted to the petitioners have been enhanced ten times more than the rent fixed earlier without affording any opportunity of hearing. By the said letter/notice, it has been made clear that if the petitioners shall not pay/deposit the enhanced rent of their shops, they shall be vacated from the allotted shops. It is further submitted that under the aforesaid threat, though the petitioners paid the enhanced rate of rent from January, 2020 to June, 2020, but thereafter because of pendency of the present writ application, they stopped paying the rent.

4. It is vehemently submitted that the fixation of the rent of the shops of Zila Parishad, Banka through the concerned Sub-Divisional Officer is wholly without jurisdiction and in the teeth of the provisions, as contained in Section 32 of the Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982



(hereinafter referred to as 'the BBC Act').

5. On the other hand, learned counsel for the Nagar Parishad, Banka submitted that the shops were allotted to the petitioners by respondent no.5, as per the deed of agreement dated 01.07.2003, only for a period of ten years and even after expiry of the said period, the petitioners have not made any request for renewal of the agreement. He further submits that on 08.04.2017, the general meeting of Zila Parishad, Banka was held under the Chairmanship of its Chairman, in presence of the Executive Officer and it was unanimously decided to enhance the monthly rent of the shops of the petitioners and other shopkeepers, which was pending since long back. They further decided to refer the matter before the Sub-Divisional Officer, Banka, who is the competent authority to determine the monthly rent of the shops of the petitioners at the market rate. Before enhancing the rent of the shops, in question, the Circle Officer, Bounsi conducted local survey of the rent of the shops situated at Zila Parishad, Banka through the Circle Inspector, who prepared a report in prescribed format on the basis of the prevailing market rate and thereafter the same has been done. He next submitted that before the impugned letter/notice enhancing the rent of the shops of the petitioners and others,



proper notice to all the shopkeepers, including the petitioners, have been issued, with a direction to appear before the concerned authority for the discussion on the point of renewal of the respective rent agreement and further for enhancement of monthly rent of the shops, but the petitioners failed to do so, which resulted into passing of the order impugned.

6. At this juncture, learned counsel for the petitioners submits that the so-called notices, prior to enhancement of the rent has never been served upon the petitioners and had there been any notice, the petitioners would have certainly brought on record or submitted their reply.

7. Be that as it may, considering the submissions made on behalf of the petitioners, the present writ application stands disposed of with a direction to the petitioners to approach before the Chief Executive Officer, Banka by filing an exhaustive representation stating all the points raised herein. If such representation is filed by the petitioners within a period of four weeks from today along with a copy of this order, the Chief Executive Officer, Banka shall consider the same and pass a reasoned and speaking order.

8. It is needless to observe that after passing the final order, the petitioners would be under obligation to ensure



payment of entire due rent within the period appropriately prescribed by the Chief Executive Officer, Banka.

9. The writ application stands disposed of.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2023
Transmission Date	NA

