

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.403 of 2024

In
Civil Writ Jurisdiction Case No.11307 of 2016

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Sharwan Kumar, Son of Late Rajendra Prasad Resident of Mohalla- Mathuria,
P.S.- Laheri (Murarpur), District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sri Shashank Shubhankar, Collector-cum-District Magistrate, Nalanda.
3. Sri Navin Kumar Pandey, Officer on Special Duty, Biharsharif, Nalanda.
4. Sri Manjeet Kumar, Additional Collector, Biharsharif, Nalanda.
5. Mr. Dharmendra Pandit, Circle Officer, Biharsharif, Nalanda.
6. Smt. Anita Devi, Mayor, Municipal Corporation, Biharsharif, Nalanda.
7. Shri Taranjot Singh, Nagar Aayukt, Municipal Corporation, Biharsharif, Nalanda.
8. Mr. Parmanand, Town Inspector, Municipal Corporation, Biharsharif, Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Adv.
For the Opposite Party/s : Additional Advocate General 12

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 20-09-2024 In pursuance to the order of this Court dated

23.08.2024, passed in the present case, the learned Advocate

Commissioner has conducted an inquiry and submitted a report

in the Court itself, which has been taken on record and is

directed to form part of the present proceedings.

2. The relevant portion of the said report dated

13.09.2024 is reproduced herein below:-

“In the above said matter I have been appointed as



Advocate commissioner, vide order dated 23.08.2024, to visit the spot and make inspection in the presence of the Municipal Commissioner, Municipal Corporation, Bihar Sharif at Nalanda, the District Magistrate, Bihar Sharif at Nalanda and the petitioner on 07.09.2024 at 11 am.

In compliance of the same, I visited there on said date and the time so stipulated, in the presence of above said persons and huge crowd of local people, noticed/gone through the following things over the spot/land(appertaining to khata no.48, Khesra no.365) in question situated at Mohalla- Ramchandrapur, Bihar Sharif at Nalanda:-

I. An Undertaking/statement signed dated 06.09.2024, on behalf of the officials of the Bihar Sharif Smart City Ltd. made available to me about no encroachment of either kind or dumping of building materials over the land in question by them (said statement is annexed herewith as Annexure-A).

II. Two unclaimed Hume pipes with some heap of garbage were lying there, but that apart nothing was found like encroachment/storage/dumping of building materials, however the photographs of the said spot, taken in the morning on the same day by the petitioner showing an attempt towards removal of the encroachment in the nature of garbage while lifting the same from the spot in question and running of illegal Meat and Fish shops over the spot in question in highly unscientific and inhuman



*manner against the Hon'ble Apex Court decision passed in SLP (C) no.309/2003, 330/2001, 44/2004, 688/2007 (I.e. **Laxmi Narayan Modi Vs Union of India & Others with analogues cases**) and other circulars, issued time to time in this regard (Those photographs are annexed herewith as Annexure- B series & C series).*

III. The Voice of the crowd during the course of inspection alleging encroachment over the land in question by the petitioner himself (i.e admittedly title holder of the said land) was not found true, as southern part of the said land belongs to the brother of the petitioner and while acquiring the same upon payment of due compensation, Government Godown found running smoothly.

IV. As per the petitioner's averment, which was found true to some extent, the bad elements of the said locality, who are indulge into business of Meat & Fishes etc), trying to run their business over the land in question (Which is extension of Fish Market of the Ramchandrepur chock i.e densely populated market) under indirect support of the local police or officials, which they have done earlier and as such an amicable settlement, in this regard is required to be made, for the ends of justice.

Conclusion

In my respectful submission/suggestion only the status quo order is not going to resolve the issue in long run, if the Officials, Municipal Corporation, Biharsharif,



Nalanda are in need of the land in question, they may take recourse of law u/s 102 &103 of the Bihar Municipal Act 2007, while withdrawing the Title Suit filed by them, pending vide T.S No. 202/2019, before the Sub-Judge 1, Biharsharif, Nalanda. However the provisions of the Bihar Street of Vendors (Protection of livelihood and regulation of Street Vending) Schemes 2017, may be helpful for time being if both the sides, particularly the aggrieved person i.e the petitioner is ready on that score, under the demanding circumstances, so stated herein above.”

3. Having regard to the facts and circumstances of the case and having perused the aforesaid report dated 13.09.2024, this Court is satisfied that the present contempt proceedings are not required to be proceeded with any further. Nonetheless, the learned counsel for the petitioner submits that since the petitioner has won the suit filed by him bearing Title Suit No.116 of 1978, wherein judgment and decree has been passed by the learned Court of Additional Sub-ordinate Judge-III, Nalanda at Biharshariff, and thereafter the first appeals filed, challenging the same, bearing First Appeal No.54 of 1986 and First Appeal No.55 of 1986, have also stood dismissed, apart from the fact that the second appeals, bearing Second Appeal No. 634 of 1993 and Second Appeal No.635 of 1993, which were filed challenging the order of dismissal of the said first appeals,



have also stood dismissed, the petitioner had filed an execution petition bearing Execution Case No.12 of 1986, which is pending adjudication before the learned Court of Additional Sub-Judge-3rd Nalanda at Biharshariff, hence the same be directed to be expedited. It is directed, accordingly.

4. At this juncture, the learned counsel appearing for the Municipal Corporation Nalanda at Biharshariff submits that the hume pipes, kept on the land in question, shall be removed within a period of two weeks from today. It is directed, accordingly.

5. Accordingly, the present petition stands disposed off.

(Mohit Kumar Shah, J)

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