

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7616 of 2024

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Arbind Prasad @ Arvind Prasad @ Aravind Prasad son of Late Jageshwar Prasad Resident of Mohalla- Purabsarai Road, Near Durga Asthan, P.S.- Kotwali, District-Munger

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, General Administrative Department, Government of Bihar, Patna
3. The Additional Chief Secretary, Land Reforms and Revenue Department, Government of Bihar, Patna
4. The Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna
5. The Divisional Commissioner, Munger Division, Munger
6. The Collector, Munger
7. The Sub Divisional Magistrate, Sadar, Munger
8. The Circle Officer, Sadar, Munger
9. The District Khas Mahal Officer, Munger

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Indu Bhushan, Adv.
For the Respondent/s : Ms. Divya Verma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 18-07-2024 The present writ petition has been filed seeking the following reliefs:-

“1(i). For issuance of an appropriate writ in the nature of certiorari for quashing the impugned order dated 29.02.2024 passed in Encroachment Appeal No. 01/2021-22 issued vide Memo No. 811 dated 29.02.2024 (contained in Annexure-P/16) by the Collector, Munger, whereby and whereunder Encroachment Appeal 01/2021-22



has been dismissed and passed the order that order dated 19.08.2021 passed in Encroachment Case No.01/2020-21 by the Circle Officer, Sadar, Munger is legal.

(ii). For passing an order declaring that the Encroachment Proceeding initiated vide Encroachment Case No.01/2020-21 by the Circle Officer, Sadar, Munger is illegal, improper, unjustified and full of mala-fide intention which was initiated over Khas Mahal Land and building of which detailed description and fact has been that a piece of Khas Mahal Lease hold Homestead Land and structure standing over the land measuring 10 Katha 04 dhur 10 dhurki equivalent to 14733 sq.ft. Mohalla-Belan Bazar, Near at Sojhi Ghat, Mahal, Garh Quila, Municipal Ward No.1, Police Station-Kasim Bazar, Sub Registry & District- Munger, Bihar appertaining to Khas Mahal Khata No.14, Khesra No. 537, Jamabandi No. 14 under Khas Mahal, Tauzi No.1333 which was butted and bounded as follows:- North:-Passage after Word Grave Yard, South:-Nawab Kothi, presently Rahmania Foundation, East:- Patna Road, West:-E.S.I. Hospital and it was purchased property by Sri Kashi Prasad Tiwari, son of Late Pandit Jagannath Tiwari by Caste Kan Kubj Brahamin, by profession-cultivation, resident of Chowk Bazar, Monghyr, Sub Registry, P.S.,P.O. and District-Munger through sale deed dated



08.10.1958 from Mrs. R.M.D. Ambler, wife of Mr. Charles Toffe Ambler by Caste Christian, resident of Loch Nagar, Fort Monghyr, at present resident of 16, Ethelred Road, West Worthing in the country of Sunsex, England through Mrs. H.E.V. Ambler Holding Power of Attorney dated 16.10.1951 and after death of Sri Pandit Kashi Prasad Tiwary his heirs namely-(1) Sri Hari Prakash Tiwari, son of Late Pandit Kashi Prasad Tiwari, (2)Sri Niraj Tiwari,(3)Sri Ajay Tiwari, (4)Sri Sanjay Tiwary, all sons of Sri Hari Prakash Tiwari and grandsons of Late Pandit Kashi Prasad Tiwari, (5)Sri Shri Prakash Tiwari, son of Late Kashi Prasad Tiwari, (6)Sri Rajev Tiwari, (7)Sri Raghav Tiwari, both sons of Shri Shree Prakash Tiwari, (8) Sri Vishwa Prakash Tiwari, son of Late Kashi Prasad Tiwari, (9)Sri Rishi Tiwari, (10) Sri Dhruv Tiwari, both sons of Shri Vishwa Prakash Tiwari and grandsons of Late Kashi Prasad Tiwari, (11) Sri Pradeep Kumar Tiwari, (12)Sri Anil Kumar Tiwari, (13)Sri Sunil Kumar Tiwari, (14)Sri Mukund Tiwari, all sons of Late Vishwanath and grandsons of Late Kashi Prasad Tiwari, (15)Sri Jai Shanker Tiwari and (16)Sri Vijay Shankar Tiwari alias Vijay Tiwari both sons of Late Ramchandra Tiwari and grandsons of Late Kashi Prasad, All by caste-Brahmin, by religion-Hindu, by Nationality Indian, by Occupation-Landlords as well as Kastkari etc. All residents of Mohalla-Chowk



Bazar near Pandit Deendayal Chowk, P.S-Kotwali, District-Munger and at present residing at different place at Lucknow (U.P.) came into possession of the said house and building of Khas Mahal Properties and the aforesaid heirs of Late Pandit Kashi Prasad Tiwari got prepared execution of deed of agreement for sale dated 28.07.2007 in the name of the petitioner after taking consideration amount Rs.78,00,000/- and also gave special irrevocable power of attorney dated 09.02.2017 to Smt. Rita Gupta, wife of Sri Arvind Prasad, resident of Mohalla-Purabsarai Road, Near Durga Asthan, P.S.- Kotwali, District-Munger and the heirs of Late Pandit Kashi Prasad Tiwari on 21.02.2017 gave an application before the Collector, Munger for permission to execute sale deed in favour of purchaser Sri Arvind Prasad.

(iii). For a direction to construct a new building over the same land where previously building was constructed and it was in the possession of the petitioner by way of legal process by the ancestor of Late Pandit Kashi Prasad Tiwari through an agreement dated 28.07.2007.

(iv).For a direction to take suitable legal action against the Circle Officer, Sadar, Munger who without any authority and power in arbitrary manner passed the order for demolition of building which has constructed over Khas Mahal Land by way of Bihar Land Encroachment Act.



(v). For a direction to pay compensation to the petitioner as the building which was in the possession of the petitioner has been demolished in illegal way without declaring the trespassers by the Khas Mahal Officer, Munger through Title Eviction Suit by the competent court of jurisdiction of Munger Civil Court.

(vi). For passing an order to declare land and building of Pandit Kashi Prasad Tiwari has been leased property of Khas Mahal Land and after death of Pandit Kashi Prasad Tiwari automatically the heirs of Pandit Kashi Prasad Tiwari will be absolute owner of the leased property which was in the name of Pandit Kashi Prasad Tiwari.”

2. After some arguments, the learned counsel for the petitioner seeks not to press the present writ petition, however, seeks liberty on behalf of the petitioner to avail such other alternative remedies as are otherwise available under the law including that of filing a suit before the learned Civil Court having competent jurisdiction. Liberty, so sought, is granted.

3. It is needless to state that status quo, existing as on today qua the land / house of the petitioner in question, shall be maintained for a period of eight weeks from today, in order to enable the petitioner to approach the competent forum /Court for redressal of his aforesaid grievances and obtain interim



relief.

4. Accordingly, the present writ petition stands disposed off
on the aforesaid terms.

(Mohit Kumar Shah, J)

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