

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9579 of 2019

1. Md. Hasrat Hussain Son of late Abdul Karim Proprietorship of Ruby Type House having shop no. 17, R/o Ram Krishna Path, North S.K. Puri, P.S. Patliputra, District- Patna.
2. Md. Babar Khan, Son of late Md. Zamiruddin Khan, Proprietorship Biryani Mahal having shop no. 5, R/o Mohalla- Nasriganj, Pathantoli, P.S.Danapur, District- Patna.
3. Md. Anis, Son of Nizamuddin , Proprietorship of Maharaja Auto Spares having shop no. 10 R/o Khalipura, P.s. Phulwarisharif, District- Patna.
4. Abdul Rashid, Son of late Bulaki Miya, Proprietorship of Abdul Rashid Tailor having shop no. 9, R/o Khalipura, P.S. Phulwarisharif, District- Patna.
5. Md. Zafar Son of Md. Mumtaz Ali, Proprietorship of Smart Battery Repairing, having shop no. 7, R/o Bans Kothi, Digha, P.S. Digha, P.S. Digha, District- Patna.
6. Aftab Alam, Son of Abdur Rashid, Proprietorship of Khaini and General Store having shop no. 9A, R/o Amritpur, P.S. Lalganj, District- Vaishali.
7. Md. Waqar Alam Son of late Shwakat Alam, Proprietorship of Magadh Vulchanising, having shop no. 01, R/O Saguna Mainpura, P.S. Danapur Cantt. District- Patna.
8. Md. Jasim, Son of Md. Rayees, Proprietorship of Maruya Motor having shop no. 6 R/o Mohammadpur, Mahendru, P.S. Sultanganj, District- Patna.
9. Aftab Alam, Son of late Md. Samad, Proprietorship of Royal Biryani Mahal, having shop no. 8 R/o Haroon Nagar, Sector-2, P.S. Phulwarisharif, District- Patna.
10. Shakil Ahmad, Son of late Ahmad Hussain, Proprietorship of Raj Electric Repairing, Work, having shop no. 4, R/o Gulstan Mohalla P.S. Phulwarisharif, Patna.
11. Md. Naushad, Son of late Md. Mushataq Proprietorship of New Magadh Vulchanising Work, having shop no. 3, R/o Banskothi, Digha, P.S. Digha, District- Patna
12. Md. Nasim Son of late Md. Mushtaq Proprietorship of Patna Battery Electric Works, having shop no. 2, R/o Bans Kothi, Digha, P.S. Digha, District- Patna.
13. Md. Ekram Son of late Md. Mahboob Proprietorship of Style and Art, having shop no. 20, R/o Indrapuri, Raza Bazar, P.S. Shastri Nagar, District- Patna.
14. Md. Rayeesh Rahman, Son of Md. Shariful Rahman, Proprietorship of General Store, having Shop no. 11, R/o Bank Road, Near Maszid Gali, Golghar, P.S. Gandhi Maidan, Patna.
15. Tajuddin Son of late Aminuddin Proprietorship of Glob Auto Centre, having shop no. 18 R/o Kotwali Chowk, P.S. Kotwali, District- Patna.
16. Fathur Rahman, Son of late Faizur Raham Proprietorship of Shyamana and Crockery having shop no. 14, R/o Ram Kirshna Path, North S.K. Puri, P.S. Patliputra, District- Patna.
17. Vikram Kumar, Son of late Nagendra Singh, Propprietoship of Shiv Shakti Pan Palace having shop no. 19, R/o Kotwali Chowk, P.S. Kotwali, District- Patna.



- 18. Md. Hamid, Son of late Md. Habib Shah, Proprietorship of Indian Biryani having shop no. 16, R/o Ramkrishna Path, P.S. S.K. Puri, District- Patna.
- 19. Md. Idris Son of Bulaki Miya, Proprietorship of Tailoring Shop having shop no. 9A, R/o Kotwali Chowk, P.S. Kotwali, District- Patna.
- 20. Md. Shahzada Quraishi, Son of late Hazi Mohammad Wakil, Proprietorship of Green Auto Helmet Repairing, having shop no. 12, R/o Kotwali Chowk, Imambara Katra P.S. Kotwali, District- Patna.
- 21. Farhat Bano, Wife of late Md. Akbar, Proprietorship Lucky Auto Spares, Shop no. 13, R/o Gate No. 96, Bans Kothi, P.S. Digha, District- Patna.

... .. Petitioner/s

Versus

- 1. The State of Bihar through Principal Secretary, Department of Urban Development Department, Govt. of Bihar, Patna.
- 2. The Principal Secretary, Department of Urban Development Department, Govt. of Bihar, Patna.
- 3. The District Magistrate, Patna.
- 4. The Patna Municipal Corporation through its Commissioner, Maurya Lok, Patna.
- 5. The Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
- 6. Director, Urban Planning, Patna Nagar Nigam, Maurya Lok Complex, Patna.
- 7. Chief Executive Officer, Nutan Rajdhani Anchal, Patna Municipal Corporation, Patna.
- 8. Chief Executive Officer, Bihar Sunni Waqf Board, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Naresh Dixit, Advocate
		Mr. Brij Bihari Tiwary, Advocate
For the Respondent/s	:	Mr. Yogendra Pd. Sinha (AAG-7)
For the PMC	:	Mr. Prasoon Sinha, Advocate
For the Waqf Board	:	Mr. Helal Ahmad, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

18 09-07-2024 Heard Mr. Naresh Dixit, learned counsel for the

petitioners, Mr. Prasoon Sinha representing the Patna Municipal

Corporation and Md. Helal Ahmad representing Bihar Sunni

Waqf Board, Patna.

2. Number of orders have been passed and now it is



time to take the matter to its logical conclusion.

3. The present writ petition has been preferred for the grant of following relief/s:-

“(i) in the nature of certiorari for setting aside the notice/order dated 25.04.2019 issued under the signature of Director, Urban Planning, Patna Municipal Corporation, Maurya Lok Complex, Patna whereby and whereunder it has been directed to the petitioners who are the shopkeepers and Katra Holders to remove their shops /establishment before 27.04.2019 otherwise the same will be demolished and the cost of demolition will also be recovered from them.

(ii) In the nature of mandamus restraining the respondents from demolishing the structures and katras (shops) standing on Plot No. 151 situated at the Junction of Patna Gaya Road, Dak Banglow Road and Bailey Road.

(iii) For any other relief or reliefs for which the petitioners are entitled for in the eye of law.”

4. It is the case of the petitioners that the land in



question [Plot No. 151 (16 decimals)] which is at the junction of Patna Gaya Road, Dak Banglow and Bailey Road, Patna, Title Suit no. 94 of 1979/11 of 1983 (**Bihar State Sunni Waqf Board and Others vs. Patna Regional Development Authority**), the same came to be decided on 28.09.1991 in favour of the plaintiffs. The petitioners are tenants and running business there but were surprised to receive the notice issued by the Patna Municipal Corporation in the year 2019 to remove the encroachment (Annexure-1 series)

5. He submits that against the said order, the defendants preferred Title Appeal No. 39 of 1992/24 of 1993 (Patna Regional Development Authority vs. Bihar State Sunni Waqf Board and Others) which is pending before the learned District Judge, Patna.

6. Counter-affidavit has been filed on behalf of the Patna Municipal Corporation and according to them, in the garb of the order of the Title Court, they have moved further and encroached additional land.

7. The case of the Corporation is that the shop owners and others have encroached 6.32 decimals which is the remaining land belonging to the Patna Municipal Corporation and as such, the notices were rightly issued.

8. However, the stand of the respondent through learned counsel, Mr. Prasoon Sinha is that the notices are of the year 2019 and for



the present, they have not pursued the matter further.

9. The newly added respondent, the Bihar State Sunni Waqf Board who should have been earlier impleaded as the respondent in the writ petition itself, it being the holder of the land, also supports the case of the petitioners.

10. The petitioners submit that they lay their claim only on the land incorporated above i.e. Plot No. 151, Area-16 decimal and no further.

11. Admittedly, Title suit order has gone in favour of the plaintiff, the Sunni Waqf Board to which the petitioners claim to be the tenants, not disputed by 'the Waqf Board'. A Title appeal is pending and till an order comes in the said Title appeal, so far as the aforesaid plot in question is concerned, in the opinion of this Court, the respondent shall not do anything to precipitate the matter. They otherwise are free to act in accordance with law if anyone much less the petitioners have encroached more than 0.16 decimals of the aforesaid land.

12. With the aforesaid observation, the present writ petition stands disposed of.

(Rajiv Roy, J)

Adnan/-

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