

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9543 of 2022

1. Ramjanm Sahni Son of Pankhi Sahni @ Vanshi Sahni, Resident of Village and P.O.- Basantpurpatti, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 02.
2. Ramesh Thakur Son of Jangi Thakur @ Janaki Thakur, Resident of Village and P.O.- Madhaul, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 10.
3. Sunil Kumar Son of Sita Ram Sah, Resident of Village and P.O.- Madhaul, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 06.
4. Sacchidanand Prasad Son of Umesh Prasad Sah, Resident of Village and P.O.- Basantpurpatti, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 03.
5. Raja Babu Son of Parmanand Sah, Resident of Village- Basaitha Bazar, P.O.- Basantpur Patti, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 04.
6. Phool Mohammad Son of Md. Multaan @ Md. Sultaan, Resident of Village and P.O.- Madhaul, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 09.
7. Jainul Miyan Son of Sarfuddin Miyan, Resident of Village- Damodar Chhapra, Post- Basantpur Patti, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 05.
8. Kameshwar Sah Son of Mahesh Lal Sah, Resident of Village and P.O.- Basantpurpatti, P.S.- Saraiya, District- Muzaffarpur, Shop No.- 01.

... .. Petitioner/s

Versus

1. The State of Bihar through Rural Development Department, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Muzaffarpur.
4. The District Engineer, Zila Parishad, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pramod Rajpati, Advocate.
For the State	:	Ms. Rashmi Ranjan, AC to SC-7.
For the Zila Parishad	:	Mr. Sunil Kumar Thakur, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 01-02-2024

Heard Mr. Pramod Rajpati, learned counsel appearing
on behalf of the petitioners; Ms. Rashmi Ranjan, learned AC to
SC-7 for the State and Mr. Sunil Kumar Thakur, learned counsel



for the Zila Parishad, Muzaffarpur.

2. Petitioners have sought for quashing of the Notice No.6 dated 30.04.2022 issued by the District Engineer, Zila Parishad, Muzaffarpur contained in Annexure -3 to the writ petition seeking reply as to why the shops allotted to the petitioners should not be cancelled and the petitioners have been directed to evict the shops within 48 hours as the petitioners have violated the terms and conditions of the agreement dated 17.09.2020, Annexure-2 to the writ petition. The petitioners were allotted shops by the District Engineer, Zila Parishad vide Letter No. 178 dated 17.09.2020 pursuant to decision dated 01.02.2020 taken by the Zila Parishad Board, Muzaffarpur.

3. Learned counsel appearing on behalf of the petitioners submitted that the notice dated 30.04.2022 was never served upon the petitioners and behind the back of the petitioners, the petitioners were forced to evict the shops within 48 hours in terms of the alleged notice dated 30.04.2022. Learned counsel submitted that the order has been passed *ex-parte* and informed that the petitioners are still in occupation of shops and have not been evicted till date.

4. *Per contra*, Mr. Sunil Kumar Thakur, learned counsel appearing on behalf of the Zila Parishad, Muzaffarpur



submitted that the petitioners were provided with ample opportunity and they were also communicated the decision of the Zila Parishad Board dated 01.02.2020. For violating the terms and conditions of the agreement entered into between the petitioners and the Zila Parishad, by not depositing due rent for the month of April 2022, the petitioners were served with a notice dated 30.04.2022 before cancellation of allotment of shops. In spite of 19 days time provided to the petitioners to file their reply, they declined to do the same. The District Engineer, Zila Parishad, Muzaffarpur had no alternative than to pass a reasoned order cancelling the agreement and directed the petitioners to evict the shops vide notice dated 30.04.2022. Petitioners have given incorrect information that they are still occupying the said shops.

5. Ms. Rashmi Ranjan, learned counsel has tendered her appearance on behalf of the State.

6. Having considered the rival submissions made on behalf of the parties as well as the fact that the petitioners had entered into the agreement dated 17.09.2020 and they were conscious of the terms and conditions of the agreement. As the petitioners have defaulted in making payment of rent of April 2022 which is in violation of the terms and conditions of the



agreement, the District Engineer, Zila Parishad, Muzaffarpur as per the direction of the Commissioner issued notice to the petitioners dated 30.04.2022. The petitioners in spite of the said notice and 19 days time granted to them have chosen not to reply the said notice. In the writ petition, there is no pleading that the notice was not received by the respective petitioners and denial at this stage by making an oral submission cannot be accepted.

7. The District Engineer, Zila Parishad, Muzaffarpur had no option than to pass order dated 30.04.2022 informing the petitioners that in breach of the agreement, the agreement dated 17.09.2020 has been rescinded and the petitioners are required to evict the shops within 48 hours. Petitioners have informed that the petitioners are still occupying the shops, however, the same has been denied by Mr. Sunil Kumar Thakur, learned counsel appearing on behalf of the Zila Parishad.

8. The question is disputed to the effect that in case the petitioners are still occupying the shop, the District Engineer, Zila Parishad, Muzaffarpur must follow the due process for removing the petitioners. It is made clear that the allegation is that of default of agreement and the petitioners are tenant. There is bar of Section 32 as per the provision of the



Bihar Building (Lease, Rent & Eviction) Control Act, 1982, as the respondent – Municipal Corporation is a local body within the meaning of the said Act.

9. With the above observation, the writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	02.02.2024
Transmission Date	N.A.

