

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17445 of 2022**

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Smt. Neelam Dwivedi W/o Shri Umakant Dwivedi Resident of Flat No. JF - 1/56, Block No. 05 Road No. 10, Rajendra Nagar P.S. Kadamkuan, Dist. - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Represented Through Additional Chief Secretary, Deptt. of Urban Development, Govt. of Bihar, Patna.
2. The Commissioner Patna Municipal Corporation Patna - 01, Maurya Complex Patna.
3. The Real State, Officer, Patna Municipal Corporation Maurya Complex, Patna.
4. The Executive Officer, Bankipur Circle, Patna.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Ram Shankar Das, Advocate |
| For the Respondent/s | : | Mr. Abbas Haider (SC-6)       |
| For the P.M.C.       | : | Mr. Prasoon Sinha, Advocate   |

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**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

8      12-08-2024                      Heard Mr. Ram Shankar Das, learned counsel for the petitioner and Mr. Prasoon Sinha, learned counsel appearing on behalf of the Patna Municipal Corporation.

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

*“(i) To quash the communication Letter No. 12071 dated 26.08.2022 whereby the the Real Estate Officer of Patna Municipal Corporation issued by (respondent no.3) addressed to the petitioner informing her by demanding dividend amount of Rs. 35,33,390/-*



*as per calculation made for the land possession as per sale lease deed for the Flat No. 56 Block-05, Type JF-1 situated at Rajendra Nagar, Patna, whereby mutation of the name of the petitioner for which petition filed along with revenue land tax of Rs. 2/- against the said Flat for the 2022-2023 whenever Bhuu Samapada Padadhikari obtained the order from Commissioner P.M.C. on 17.08.2022.*

*(ii) To direct the P.M.C. to transfer the name of the petitioner for the said Bhukhand/ Flat/ House and JF 1/ 56, Block No. 05 road No. 10 Rajendra Nagar Patna where the petitioner applied for transfer her name as per the P.R.D.A. Act, Rule 21 of 1978 on the She has purchased the said Flat from one Dhruva Mukherjee who allottee from 19.10.1950. so that the communication as contained in Annexure-5, thus, does not have any legal basis and as such that is fit to be quashed.”*

3. This is another case of arm twisting by the Patna Municipal Corporation (henceforth for short ‘the PMC’), in which, despite losing the battle right from learned Single Judge to Division Bench up to the Hon’ble Apex Court, still they are



continuing with the demand of the '*laabhaansh*' (dividend) from the prospective buyers.

4. In this case, the petitioner has been slapped with letter no. 12071 dated 26.08.2022 issued by 'the PMC' by which she has been asked to pay Rs. 35,33,390/- as the dividend for mutation of a plot of the erstwhile P.R.D.A. (**Flat No. 56, Block 5, Type-JF1**) situated at Rajendra Nagar Patna.

5. The facts in narrow compass is/are as follows:

(i) Smt. Karuna Sharma (transferer) sold the said flat to the petitioner by virtue of sale deed and transfer-cum-assignment of lease hold right after permission. The petitioner got the flat registered at considerable amount of Rs. 3,51,00000 as well as stamp duty or Rupees 24,92,000 on 31.03.2012. The Transferer-cum-Assigner has already delivered possession of the said flat in favour of the petitioner and handed over all the documents of Title etc to her.

(ii) Executive Officer Bankipur Circle P.M.C., Patna, thereafter issued notice to the petitioner as well as first allottee Dhruv Mukherjee vide Mutation Case No. 72/29/12-13 for guaranteeing of mutation by fixing the date on 22.05.2012 to appear along with necessary paper of document. It is further submitted that notice has also been issued to first allottee



namely, Dhruv Mukherjee to submit whether he has any objection in transferring it in the name of the petitioner and as such notice was issued on 10.05.2012 by the said Executive Officer.

(iii) On 22.05.2012, the respondent no. 4 passed an order and granted permission to enter her name in the records in place of Dhruv Mukherjee. The Executive Officer thus passed the order and made recommendation to this effect.

6. Learned counsel for the petitioner submits that despite losing the battle in the case of **Sanjay Singh vs The State of Bihar & Ors. in CWJC No. 13886 of 2011** (Annexure-5 to the petition), which was stamped by the Division Bench as also the Hon'ble Apex Court, the illegal order has been passed and as such, it needs interference.

7. Learned counsel for 'the PMC' has filed counter affidavit and after recording the facts of the case, in reply to paragraph-8 of the writ petition of the petitioner, the reply of 'the PMC' incorporated in paragraph 3(xii) read as follows:

*“3(xii) Facts and law involved in the case of Sanjay Singh decided by the order dated 10.07.2013 passed in CWJC No-13886/2011 are different from the facts of the*



*present case and similarly the law applicable in the present case is also different.”*

8. Upon query, learned counsel for the P.M.C. has failed to differentiate out how the case of **Sanjay Singh** (supra) is not applicable in the present case.

9. It is to be noted that one Sanjay Singh moved this Court being aggrieved by the same demand made by ‘the PMC’ in CWJC No. 13886 of 2011 and learned Single Judge vide a reasoned order dated 10.07.2013 held that Rule 20 of the P.R.D.A. (Disposal of Land Rules, 1978) which stands incorporated in the agreement was limited to ten years from the date of execution of deed of lease in favour of the allottee and as such, ‘the PMC’ cannot demand the ‘*laabhaansh*’ (dividend) after the ten years. Accordingly, the writ petition was allowed.

10. The concluding part of the order passed in **Sanjay Singh** (supra) is incorporated hereinbelow:-

*“Thus, in my opinion the PRDA cannot ask the allottee to part with 50% of the earned amount even in view of the Rule 20 of PRDA (Disposal of Land) Rules 1978 also as that would be required only if the*



*transfer is being made within ten years from the date of execution of deed of lease in favour of the allottee, which is admittedly not been done in the case in hand.*

*Accordingly, the issue no. (i) is answered in affirmative and issue no. 2 is answered in negative. The writ petition stands allowed and the impugned communication contained in Annexure-5 is quashed.”*

11. Aggrieved ‘the PMC’ after three years preferred LPA No. 512 of 2016 (**The Commissioner, Patna Municipal Corporation vs Sanjay Singh & Ors.**) it came to be dismissed on 13.12.2017 and the Division Bench recorded the order as follows:-

*“A delay of 2 years and 6 days is being explained away as routine bureaucratic delay.*

*There is no special privilege for any organization sans the rule and the law with regard to time fixed for preferring the appeal. A modest and a reasonable kind of*



*delay is always condonable but no delay of such kind where there is no cogent and valid explanation coming as to what took them so long in preferring the appeal. Obviously, someone in the Corporation was geared up to help the petitioners to beget the benefits of the judgment, that anyway he will beget since the limitation petition is dismissed along with the appeal for obvious extended delay on their part.*

*The fall out of the decision and the liability, which may be created upon the Corporation, can be recovered from the people, who were responsible in delaying the process in preferring the appeal.”*

12. ‘The PMC’ again slept over the matter and a year later, preferred SLP (C) No. 12463 of 2018 (**The Commissioner, Patna Municipal Corporation & Anr. Vs Sanjay Singh & Ors.**).

13. It also met the same fate inasmuch as on 14.05.2018, the special writ petition was dismissed and with that the demand of ‘the PMC’ of dividend for all practical purposes



consigned to the files.

14. The facts have been recorded as also the decision of learned Single Judge which has been stamped by the Division Bench and Hon'ble Apex Court.

15. Despite loosing the battle upto the Hon'ble Apex Court, 'the PMC' is continuing with its draconian Clause/Rule which is completely illegal.

16. In that background, this Court has no option but to quash the letter no. 12071 dated 26.08.2022 (Annexure-7 to the writ petition) by which demand of Rs. 35,33,390/- as '*laabhaansh*' (dividend) has been demanded by 'the PMC'.

17. The petitioner to approach 'the PMC' in next four weeks alongwith this order who shall take appropriate steps in accordance with law in next three months.

18. The present writ petition is allowed.

**(Rajiv Roy, J)**

Adnan/-

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