

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.49 of 2014

=====

Durga Devi Wife Of Late Umesh Prasad Sah Resident Of Village -
Forbesganj, Ward No. - 11, P.S. - Forbesganj, District - Araria

... .. Petitioner

Versus

1. The State of Bihar
2. Managing Director, Bihar Agriculture Marketing Board (Dissolved), Pant Bhawan, Patna.
3. District Magistrate, Araria.
4. Sub-Division Officer-Cum-Special Officer, Agriculture Produce Market Committee, Forbesganj, District – Araria.
5. Mr. Amarendra Pratap Singh, Cashier Agriculture Produce Marketing Committee, Forbesganj, District – Araria.
6. Mr. Kuresh Alam Son Of Majid Alam Resident Of Village Mohalla Forbesganj, P.S. - Forbesganj, District – Araria.

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Anwar Karim, Advocate
	:	Mr. Shanti Pratap, Advocate
For the Respondents	:	Mr. Harendra Pd. Singh, Advocate

=====

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 18-09-2024

1. The Writ Petition has been filed for quashing the order *vide* Letter No. 58 dated 25.10.2011, issued by the Sub-Divisional Officer, Agriculture Produce Market Committee (Dissolved), Forbesganj (Araria) by which Shop No. 54 allotted in the name of the husband of the petitioner has been cancelled on the ground that he has sub-let the aforesaid shop to one Quresh Alam and further the husband of the petitioner was directed to vacate the aforesaid shop within three days.

2. Further, the Writ application is filed to quash a Letter *vide* Memo No. 68 dated 07.03.2013, issued by the Sub-



Divisional Officer-Cum-Special Officer, Agriculture Produce Market Committee, Forbesganj (Araria), by which the representation/appeal filed by the petitioner has been rejected.

3. The brief facts of the Writ petition are that, initially Shop No. 54 was allotted in the name of the husband of the petitioner (who died on 28.12.2012) *vide* license No. 410/96-97. The husband of the petitioner used to deposit the rent of the Shop No. 54 regularly. In order to support the contentions, the petitioner filed the receipts dated 14.11.1998, 14.04.1999, 07.07.2009, 06.04.2011, 27.08.2011 and 18.11.2011 along with the Writ petition (Annexure-4 series).

4. Later, the petitioner filed an application before the Sub-Divisional Officer-Cum-Special Officer, Agriculture Produce Market Committee Forbesganj, District – Araria, stating her husband was a drunkard and the private respondent No. 6, namely, Quresh Alam took advantage of the situation and influenced him to sub-let Shop No. 54.

5. It is stated that Letter No. 58 dated 25.10.2011 disclose that allotment of Shop No. 54 was cancelled on the ground that the said shop was let out to the 6th respondent by the husband of the petitioner. Further, the husband of the



petitioner had not paid the market fee March 2005 to October 2006. It is further contended that one Gopal Shah, a neighbour of the petitioner informed the S.D.O-Cum-Special Officer on affidavit that the husband of the petitioner is a habitual drunkard and the aforesaid shop was given to Quresh Alam without the consent of his family and as such, allotment of the said shop to Quresh Alam is inhuman and the entire family would be adversely affected.

6. The petitioner also filed an application before the Chief Minister, *JANTA DARBAR*, Patna against the illegal and arbitrary cancellation of Shop No. 54, in which she mentioned that the private respondent No. 6, namely, Quresh Alam is very much close to the then Sub-Divisional Officer and as such, he managed to get the shop allotted in his name. Thereafter, *Janshikayat Padadhikari* issued Letter No. 6151 dated 14.11.2012 to the Administrator, Bihar State Marketing Board to take steps and to make thorough enquiry and communicate the same to the petitioner.

6. Further, the petitioner filed a representation dated 22.11.2012 before District Magistrate, Araria requesting to



restore the possession of Shop No. 54 and to transfer the license of the said shop in the name of the petitioner.

7. Further, the petitioner also filed a Second Appeal Dated 26.12.2012 before Bihar State Information Commission as documents were not supplied to the petitioner for the application, filed under RTI Act.

8. The petitioner also filed an application before the Appellate Authority-Cum-D.M., Araria requesting therein to supply the information about the action taken by the authority on the representation dated 22.11.2012 but nothing was communicated. As there was no remedy available to the petitioner, the petitioner is constrained to file Writ petition under Article 226 of the Constitution of India.

9. A detailed counter was filed by respondent Nos. 3 and 4, which discloses that Shop No. 54 was initially allotted to the husband of the petitioner. But the allottee did not follow the terms and conditions as guided by the Agriculture Produce Market Committee (Dissolve) Forbesganj and further, the husband of the petitioner did not deposit the rent nor he applied for the renewal of his license. Further, during the course of inspection, it was found by the S.D.O-Cum-Special Officer,



Agriculture Produce Market Committee, Forbesganj that the allotted Shop No. 54 was sub-let to respondent No. 6 for business on rent by the husband of the petitioner. The husband of the petitioner has also obtained some money as advance against Shop No. 54, whereas the Department has not permitted any allottee to sub-let shop on rent to anybody else because the shop under Marketing Committee is only for the purpose of business and self-use for the allottee and not either to sub-let or to transfer to anyone. The counter further disclose that the husband of the petitioner knowingly and deliberately sub-let the allotted shop to another person only to get more rent, which is in violation to the rules of the Department. Further, respondent No. 4 enquired the matter at grass root level and found the fact that the husband of the petitioner has sub-let the shop to the private respondent No. 6, and that the Special Officer of Bihar Agriculture Producte Market Committee (Dissolve), Forbesganj, has rightly cancelled the Shop No. 54, which had been allotted in the name of the husband of the petitioner. After cancellation in the interest of collection of revenue, Shop No. 54 was re-allotted to respondent No. 6 by obtaining the documentary proof, as



prescribed by the Department. Since then, respondent No. 6 is running the business under the name and style of M/s Qureshi Alam Fruit Agency. The action taken by respondent No. 4 is legal and genuine and it is in accordance with the guidelines of the Bihar State Agriculture Marketing Board, Patna, therefore, prayed to dismiss the writ petition as it is devoid of merits.

10. A detailed counter was filed on behalf of respondent No. 6, (Private Respondent) which disclose that initially the husband of the petitioner was allotted with Shop No. 54, who in turn, has sub-let the said shop to him. It is contended by respondent No. 6 that the S.D.O.-cum-Special Officer, Agriculture Produce Market Committee (Dissolve), Forbesganj, Araria after considering that the husband of the petitioner was not in the possession of Shop No. 54 and the rent of the same was not regularly deposited to Department, cancelled the allotment due to violation of terms and conditions with regard to allotment of Shop and that the said cancellation was done after proper issuance of notice. Later, fresh allotment was made to respondent No. 6. Further, the S.D.O.-Cum-Special Officer, Agriculture Produce Market Committee (Dissolve), Forbesganj, Araria duly executed an



agreement with respondent No. 6 on 25.08.2012 and since then, respondent No. 6 is in the possession of Shop No. 54 and that he is continuously making payment of market rent to the Agriculture Produce Market Committee (Dissolve) Forbesganj. It is specifically contended that due to sub-let of the shop to respondent No. 6 by the husband of the petitioner and also of default of payment of rent, the Market Committee took a decision to terminate the agreement with the husband of petitioner and *vide* a public notice selected Qureshi Alam (respondent No. 6) and that he is in continuous possession of Shop No. 54 since 25.08.2012.

11. A detailed rejoinder has been filed by the petitioner to the counter filed on behalf of respondent No. 6, wherein it discloses that respondent No. 6 was very much close to respondent No. 4 and that he managed to get the allotment after cancellation on the ground that the husband of the petitioner has let out the shop on rent to the private respondent No. 6 and further has not deposited the rent for the period of March 2005 to October 2006. It is further contended in the rejoinder that the petitioner has made a representation before the Hon'ble Chief Minister and without hearing the petitioner,



the representation was rejected *vide* Memo No. 68 dated 07.03.2013, issued by the respondent No. 4.

12. On perusal of the entire records, it is evident that Letter No. 58 dated 25.10.2011 was issued by the S.D.O.-Cum-Special Officer, Agriculture Produce Market Committee, Forbesganj, Araria for cancellation of the allotment of Shop No. 54 on the ground that it was let out on rent to respondent No. 6 and further, the husband of the petitioner has not paid the market fees from March 2005 to October 2006 i.e. for more than a period of one year and seven months, and therefore, there is a direction for the husband of the petitioner to get the shop evicted from respondent No. 6 within three days. Admittedly, the husband of the petitioner has not taken any steps for challenging Letter No. 58 dated 25.10.2011 and after the death of the husband of the petitioner, for the first time, the petitioner made a representation to the Hon'ble Chief Minister at '*JANTA DARBAR*, Patna' for cancellation of allotment of Shop No. 54 to respondent No. 6. In spite of cancellation of the shop in the year 2011, either the husband of the petitioner or the petitioner did not approach this Court to challenge the



cancellation of the allotment. The petitioner cannot claim it as a matter of right to inherit the allotment of her husband.

13. Admittedly, respondent No. 6 is in possession of allotted shop for more than a decade. If at all, the petitioner intends to get the allotment of the shop for her livelihood, she can approach the authorities by making a fresh application for allotment of shop, which shall be considered by the respondents as per the availability of the shops.

14. Therefore, this Court is of the considerable view that there are no irregularities by the acts of the respondents, so as to interfere with the same.

15. With the abovesaid discussions, the Writ petition is dismissed as devoid of merits.

16. Interlocutory application(s), if any, shall also stands disposed of.

(G. Anupama Chakravarthy, J)

Shanu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.10.2024.
Transmission Date	NA

