

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.90 of 2024

1. Ganga Kumar Yadav son of Late Chando Yadav, resident of Village-Indai, P.O. and P.S. and District-Sheikhpura, Bihar-811105.
2. Sudhir Kumar son of Bhola Prasad Ray, resident of Village-Indai, P.O. and P.S. and District-Sheikhpura, Bihar-811105.
3. Rohan Kumar, Son of Late Masudan Mahto, resident of Village-Indai, P.O. and P.S. and District-Sheikhpura, Bihar-811105.
4. Sanjay Kumar, son of Shiv Shankar Sah, resident of Village-Indai, P.O. and P.S. and District-Sheikhpura, Bihar-811105.
5. Md. Danish Alam, son of Mokhtar Alam, resident of Village-Indai, P.O. and P.S. and District-Sheikhpura, Bihar-811105.
6. Sanjay Ravat @ Sanjay Kumar son of Prakash Ravat, resident of Village-Kalyanpur, P.O. and P.S. and District Jamui, Bihar-811307.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The District Magistrate, Sheikhpura, Bihar.
3. The Sub Divisional Officer, Sheikhpura, Bihar.
4. The Chairman, District Board, Sheikhpura, Bihar.
5. The Chief Executive Officer, District Board, Sheikhpura, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Adv
For the Respondent/s : Mr. Abbas Haider (SC6)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 20-08-2024 Heard Mr. Bipin Kumar, learned counsel for the
petitioner and Mr. S.H. Mazid, learned AC to SC-6.

2. The present writ petition has been preferred for the
following relief(s):

*(i) for issuance of an appropriate
writ/writs order/orders direction/directions
in the nature of certiorari to set aside the*



order dated 04.09.2023 passed by the Chief executive officer, District Board, Sheikhpura and Notice dated 03.10.2023 vide Memo no. 603 issued by the Chief executive officer, District Board, Sheikhpura whereby and where under the petitioners were noticed to vacate their respective shops.

A True Photo copy of the order dated 04.09.2023 and Notice dated 03.10.2023 vide Memo no. 603 are annexed herewith and marked as Annexure- 1& 1A respectively to this application;

(ii) for issuance of an appropriate writ/writs order/orders direction/directions in the nature of mandamus commanding the Respondents to immediately take as well as follow appropriate legal process in increment of rent of the petitioner's shop with following relevant rules and law;

(iii) for issuance of an appropriate writ/writs order/orders direction/directions in the nature of mandamus commanding the Respondents to not vacate the shop of the petitioners.

(iv) for any other relief/reliefs for which petitioners are entitled in the eyes of law and as this Hon'ble Court may deem fit and proper as the fact and circumstances of this case.



3. The petitioners, six in numbers are occupying the shops of the District Board, Sheikhpura since last several decades and are now aggrieved by the issuance of order by the Chief Executive Officer, Zila Parishad, Sheikhpura vide memo no. 520 dated 04.09.2023 (Annexure-1 to the petition) by which taking into account the fact that they are not making payment of rent, the settlement was cancelled.

4. Learned counsel for the petitioners submit that they have not been heard before the decision taken. It is their further submission that though admittedly, the payment was not made earlier, they are ready to pay the amount but the shops from which their family survives, they should not be deprived of it. It is the further submission of the learned counsel for the petitioners that if permitted the rent amount which range below Rs. 2,00,000/- will be paid along with the representation with two fold prayers:

(i) to allow them to continue with the shop;

(ii) to give fresh sympathetic consideration to the interest amount that has been calculated on the rent.

5. Learned State Counsel submits that a perusal of the order would show that the petitioners deliberately avoided



making payment of rent despite several communication made by the concerned authorities and in that background, they were constrained to pass the order.

6. Having gone through the facts of the case as also the submissions put forward by the parties, one thing is clear, the petitioners who claim that the shops are the source of their livelihood, failed to understand that if rent is not paid, the source of livelihood would go anytime. This Court also finds force in the submission of the learned State Counsel that repeatedly, request was made by the concerned authorities to make payment which was/were ignored by the petitioners.

7. However, this Court cannot turn its eyes away from the fact that they are occupying the shops and it is the only source of livelihood for their respective families, the petitioners are ready to immediately pay the rent amount along with the representation. This Court deems it fit and proper that they should be given a chance, particularly when, the order has been passed without putting them on notice.

8. In that background, the writ petition stands disposed of with the following directions:

(i) the petitioners are duty bound to make payment of the entire rent amount up to 31.08.2024;



(ii) the rent upto August, 2024 shall be determined by the Zila Parishad, Sheikhpura;

(iii) payment shall be made by the petitioner individually by way of demand draft addressed to Zila Parishad, Sheikhpura through its Chief Executive Officer;

(iv) If the individual representation along with proper bank draft of the local State Bank of India with entire amount (the due rent upto 31.08.2024) is/are submitted before the respondent no. 5, the Chief Executive Officer, Zila Parishad, Sheikhpura, he shall look into the twin prayers of the petitioners:

(a) to continue with the shop on the rate to be determined by the respondent;

(b) to take sympathetic view on the interest amount that has accrued on the rent against these petitioners.

9. If the petitioners individually prefer the petition along with the demand drafts in next four weeks, the respondent no. 5 shall be taking the steps and pass an appropriate order expeditiously.

10. Till an order is passed by the respondent no. 5, status quo as existing today shall be maintained. However, it is made clear that this status quo order shall be applicable in case



of only such petitioner who shall file representation alongwith the rent amount (minus the interest) upto 31.08.2024 within a period of four weeks.

11. The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

Vijay Singh/-

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