

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16363 of 2016

1. Ajay Kumar and Ors Son of Late Parmeshwari Ray
2. Sunil Kumar Son of Akhileshwari Ray
3. Sujit Kumar Son of Akhileshwari Ray
4. Yogesh Kumar Son of Late Pradeep Kumar @ Late Pradeep Ray All are resident of Mohalla- Uttar Manus Lane, Near Zila School, G.B. Road, P.O.- Head Post Office, P.S.- Civil Line, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Divisional Commissioner, Magadh Range, Gaya.
3. The District Magistrate, Gaya.
4. The D.I.G. Magadh Range, Gaya.
5. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.
6. The Superintendent of Police, Gaya.
7. The Sub-Divisional Officer, Gaya.
8. The S.H.O. Civil Line Police Station, Gaya.
9. Kishori Raut Son of Late Tilakdhari Prasad Singh
10. Kunti Devi wife of Late Baleshar Prasad
11. Shanti Devi Daughter of Late Tilakdhari Prasad Singh Respondent No.9 to 11 are resident of Village- Naudhariya, P.S.- Buniyadganj, District- Gaya.
12. Pushpa Devi Daughter of Late Akhileshwari Ray
13. Seema Devi Daughter of Late Akhileshwari Ray
14. Jaini Kumari Daughter of Late Akhileshwari Ray
15. Shalini Kumari Daughter of Late Akhileshwari Ray
16. Sushil Kumar Son of Late Parmeshwari Ray
17. Sonu Kumar Son of Late Parmeshwari Ray
18. Baby Devi Daughter of Late Parmeshwari Ray
19. Rinki Devi Daughter of Late Parmeshwari Ray
20. Rajiv Ray Son of Late Bindeshwari Ray null
21. Vidya Devi Son of Late Bindeshwari Ray
22. Abhishek Kumar Son of Late Pradeep Kumar
23. Vinit Kumar Son of Late Pradeep Kumar
24. Neha Kumari Daughter of Late Pradeep Kumar Respondent No.12 to 24 are resident of Mohalla- Uttar Manus Lane, Near Zila School, G.B. Road, P.O.- Head Post Office, P.S.- Civil Line, District- Gaya.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Adv.
Mr. Kundan Kumar, Adv.
For the State : Mr. Yogendra Pd. Sinha, AAG-7
Mr. Rajeev Kumar Sinha, AC to AAG
For the Corporation : Mr. Yogendra Pd. Sinha- Aag7

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 04-12-2025 Heard Mr. Ranjeet Kumar, learned counsel for the
petitioner and Mr. Ravindra Priyadarshi, learned State Counsel.

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

*i) For setting aside the Memo No.
2192 dated 15-09-2016 issued by the
Municipal Commissioner, Gaya Municipal
Corporation, Gaya whereby the petitioners
namely Sunil Kumar and Sujit Kumar has
been directed to vacate their house bearing
House No. 19/23, Ward No. 5/22, Mohalla
Uttar Manus Road, Gaya within 10 days so
that the demolition of the house may be
executed which is as per the Municipal
Corporation, Gaya is in debilitated
condition.*

*ii) For any other relief/reliefs for
which petitioners may be deemed entitled
too.*

3. The petitioner claims to be residing in the House
no. 19/23, Ward No. 5/22 under holding 27/28 at Mohalla- Uttar
Manus Road, Gaya which he claims to be his ancestral property.



4. He is aggrieved by the notice issued by the Municipal Commissioner, Gaya Municipal Corporation, Gaya (henceforth for short 'the Corporation') (memo no. 2192) dated 15.09.2016 by which considering the application submitted by Kishori Raut & Ors. that the building is in a bad condition and needs to be demolished, he was asked to vacate the same.

5. It is alleged that pursuant to the said application, no proper inspection was done nor any photographs attached and/or the said inspection was done in the presence of both the petitioner as also Kishori Raut to come to a conclusion before passing the order in question.

6. A counter affidavit has come on behalf of the respondent nos. 1 to 5 duly signed by the Junior Engineer of 'the Corporation' and learned counsel took this Court to the report submitted by its Amin. This six line cryptic report shows that the building is old and new plaster is being put on the outer boundary.

7. In the opinion of the Court, an application came before 'the Corporation' stating that the building in question is in a bad condition, 'the Corporation' should have taken into consideration the said application as also its ownership, the parties should have been noticed, an inspection date should have



been fixed so that applicant/aggrieved parties are able to present themselves. Thereafter, an inspection of the building along with map/photographs should have been conducted and the report should have been duly signed by the parties. Only after the submission of the said report and having been satisfied that the building is in bad shape and needs to be demolished to avoid casualty, after giving an opportunity of hearing to the parties, any order could have been passed. Instead, on the basis of a cryptic report, the respondent-Commissioner passed the cryptic order.

8. In that background, the order in question has to go. However, this Court has taken note of the fact that though the petitioner took interim protection on 29.09.2016 from the Co-ordinate Bench, he chose not to make prayer/submission that the applicant, Kishori Raut and others be noticed. In that background, while setting aside the memo no. 2192 dated 15.09.2016 issued by the Municipal Commissioner, Gaya Municipal Corporation with regard to the aforesaid house, this Court revives the application sent by Kishori Raut which led to the order.

9. 'The Corporation' is duty bound to take up the application submitted by Kishori Raut and Ors, notice all the



concerned parties and act strictly in accordance with law to bring the matter to a final conclusion. It is duty-bound to issue notices upon the parties within four weeks from the passing of the present order.

10. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

Vijay Singh/-

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