

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12263 of 2023

Sanjeev Kumar Son of Sri Shiv Shankar Prasad, resident of Ward No. 25, Brahmakumari Lane, Baldev Villa, M. Building, Amgola Road, P.S. - Kajimohammadpur, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The Commissioner, Tirhut Commissioner, Muzaffarpur.
3. The District Magistrate, Muzaffarpur.
4. The Sub-Divisional Officer, East Muzaffarpur-cum-Special Officer, Agricultural Produce Market Committee, Muzaffarpur.
5. Anil Kumar, Son of Kanhaiya Salampur, resident of Mohalla - Andi Gola, Police Station Muzaffarpur Town, Post - Head Post Office, Muzaffarpur, District - Muzaffarpur.
6. Subodh Kumar Singh, Son of Ram Kalewar Singh, Village and P.O.- Mahiswara, P.S. Gayghat, District - Muzaffarpur at present Ambedkar, P.O. Bhikhnpura, P.S.- Ahiyapur, District- Muzaffarpur. Mobile no. - 7979075204.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Rajpati, Adv.
For the Respondent/s : Mr. Anant Prasad Singh (Sc 15)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 27-03-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

relief(s):-

“(i) For direction to the respondent authorities to replace the name from the petitioner (M/s S.K.C. Fruits) to the earlier allottee respondent No. 5 of the Shop No. C-39 situated at Agriculture Produce Market Committee, Muzaffarpur.

(ii) For grant of any other reliefs to which the petitioner may be found entitled in the facts and circumstances of this case.”



The following prayer has been added by way of I.A. No. 01 of 2023.

“1. That the present Interlocutory Application is being filed on behalf of the petitioner for quash/stay the Memo No. 317 dated 25.08.2023 in which respondent No. 4 (Sub-Divisional Officer, East Muzaffarpur-cum-Special Officer) illegally passed the order on the basis of application of stranger to vacate the Shop No. C-39 at Agriculture Produce Market Committee, Muzaffarpur.

2. That the writ application has been filed for direction to the respondent authorities to replace the name from the petitioner (M/s S.K.C. Fruits) to the earlier allottee respondent No. 5 Anil Kumar of the Shop No. C-39 situated at Agriculture Produce Market Committee, Muzaffarpur.”

3. It is the case of the petitioner that the respondent No. 5 was allotted the shop bearing No. C-39 by the Agriculture Produce Market Committee, Muzaffarpur and that the petitioner had entered into a partnership deed with the respondent No. 5 for carrying on business of fruits. That though initially the petitioner as well as the respondent No. 5 were doing the business of foodgrains, they sustained losses and, therefore, in the year 2009, the petitioner had requested the respondent No. 5 to permit him to carry on the business of fruits as the respondent No. 5 had already taken a shop at Andi Gola, Muzaffarpur and running the same in the name of Priya Kirana Store.



4. Learned counsel appearing on behalf of the petitioner has stated that basing on the documents filed by the petitioner, the Banks have sanctioned the loan of Rs. 5 lakhs and one lakh in the name of the petitioner's shop. Further, it is stated that the license for the same has already been issued by the concerned authorities in respect of the very same premises. That the petitioner has given a representation to the authority concerned to change the name of the allottee from that of respondent No. 5 to that of the petitioner but till date no orders have been passed by the authority. During the pendency of the CWJC, the petitioner has filed I.A. No. 01 of 2023 seeking to amend the prayer whereby he has prayed for the above mentioned reliefs. Learned counsel has further stated that the authorities at the instance of third party have initiated an enquiry against the petitioner and directed him to vacate the shop. Learned counsel has stated that the petitioner in order to participate in the said enquiry conducted by the authorities, sought for some documents but the same was not furnished. That the representation given by the third party respondent has not been furnished to the petitioner thereby the participation of the petitioner was only for the namesake and he could not give any suitable reply to the representation made by the third party.



Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned order.

5. *Per contra*, the learned counsel appearing on behalf of the Market Committee has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner is an unauthorized person and he has no locus standi to remain in possession of the subject property. That the authorities having received a complaint from the respondent No. 6 herein have initiated an enquiry. That petitioner was put on show cause notice however, the petitioner appeared before the authority and sought time for filing the reply and instantly approached this Hon'ble Court by way of present CWJC. Learned counsel has stated that though ample opportunity was given to the petitioner to produce the documents to show his right/ title over the subject property, the petitioner has failed to do so therefore, left with no other option, the authorities had to pass the orders directing the petitioner to vacate the premises. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. Learned counsel appearing on behalf of the respondent Nos. 5 & 6 has also opposed the maintainability of the present writ petition and stated that the petitioner taking advantage of absence of the respondent No. 5 has encroached the subject



property allotted to him. That the respondent No. 6 is none other than the partner of the respondent No. 5. That the respondent No. 6 has given a complaint to the authorities about the unauthorized occupation of the petitioner. That the authorities have initiated the necessary enquiry and found that the petitioner did not have any bona fides to continue in possession of the shop and he was only an encroacher.

7. Admittedly, as seen from the records the petitioner, except stating that a loan has been sanctioned by the SBI and that license was issued in the name of M/s S.K.C. fruits, has not filed any other document to substantiate his right, title or his claim over the subject property. The petitioner has neither filed any allotment letter or authorization letter from the Market Committee to show that he was recognized as a partner of the respondent No. 5 nor he filed any partnership deed alleged to have been executed between him and the respondent No. 5. Further, a perusal of the documents i.e., the statement of loan account and the license granted in favour of the petitioner reveal that the shop number shown in the said documents is C-39A whereas the subject property in the present writ petition is shop No. C-39. Further, it is to be noted that mere issuance of the license or sanctioning of a loan by the Bank could not entitle the petitioner to claim any right or title over the subject



property. In the absence of any document to show that he is having a valid partnership deed with the respondent No. 5 or that his partnership was recognized by the Market Committee, no orders can be issued in his favour.

8. This Court does not find any merit in the present writ petition which warrants any interference by this Court. The writ petition is accordingly dismissed leaving it open to the petitioner to avail the remedies as available to him under the Civil Law, if he has any grievance against the respondent No. 5.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2025.
Transmission Date	NA

