

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12287 of 2023

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Ram Suphal Rai @ Ram Suphat Rai Son of Late Dev Nandan Rai, resident of village - Dekuli Dharampur, Ward No. 9, Post - Kamrauli, P.S. - Piprahi, District - Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate-cum-Collector, Sheohar.
5. The Additional Collector, Sheohar.
6. The Sub-Divisional Officer, Sheohar.
7. The Circle Officer, Piprahi, District- Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Verma, Advocate Mr. Suman Kumar Verma, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 22-04-2025 Heard Mr. Sunil Kumar Verma, learned counsel for the petitioner and Mr. Raj Kishore Roy, learned GP-18 for the State.

2. Learned counsel for the petitioner submits that a tender was floated in connection with Deokuli Mela Sairat Settlement during financial year 2023-2024. The petitioner participated along with others and was the highest bidder making a bid of Rs.29,40,000/-. The petitioner paid an amount of Rs.20 lakhs in the nature of reserve amount and submitted an affidavit that remaining amount of Rs.11,75,200/- shall be



deposited by July, 2023. The petitioner thereafter was issued provisional parwana on 25.03.2023 under the signature of the Collector, Sheohar for collecting the toll w.e.f. 01.04.2023. It is submitted that though provisional parwana was issued on 25.03.2023 but possession and control over 21 shops/space etc. under Deokuli Mela Sairat situated at Mauza Deokuli Dharampur under Thana No. 146, Khata No. 933, RS Plot No. 4735 and 4736, area 71 decimals and 02 decimals respectively was not handed over to the petitioner, as such, the petitioner started facing loss to the extent of Rs.25,000/- every week. It is further submitted that petitioner, accordingly, represented on which the learned counsel appearing on behalf of the State submits that though it has been pleaded in the writ application that petitioner represented with respect to 21 shops which was not handed over to him but then the said representation has not been annexed with the writ application.

3. Learned counsel for the petitioner submits that in pursuance of his representation, the Additional Collector, Sheohar issued letter no. 564 dated 02.05.2023 (Annexure-3) addressed to the Circle Officer, Piprahi recording therein that the Circle Officer, Piprahi despite being aware of the application submitted by the petitioner raising grievance with regard to non-



possession of shops falling under the Sairat is not taking sincere and positive steps towards removal of encroachment from the shops/space etc. and the Circle Officer was directed to submit a report within three days. The letter also recorded that illegal settlement of 5 shops within Deokuli Mela premises was cancelled by the Additional Collector, Sheohar but those 5 shops till date have not been vacated.

4. At this stage, learned counsel appearing on behalf of the State submits that from perusal of Annexure-3, it would manifest that letter dated 02.05.2023 issued by the Additional Collector, Sheohar does even remotely suggests that the issue of 21 shops was taken up by the Additional Collector, Sheohar rather the letter dated 02.05.2023 records that 5 shops which were illegally settled, their settlement was cancelled but then the Circle Officer, Piprahi has not removed the encroachment and thus a report was sought.

5. Learned counsel for the petitioner next submits that the Circle Officer in compliance of the letter dated 02.05.2023 issued by the Additional Collector, Sheohar submitted his report dated 07.07.2023 (Annexure-4 series) annexing the report of the Revenue Karamchari, Circle Inspector and measurement report submitted by the Anchal Amin addressed to the Collector,



Sheohar recording therein that 5 shopkeepers have filed Appeal Case No. 178 of 2018 against the order of cancellation of settlement by the Additional Collector, Sheohar before the Collector, Sheohar which is pending adjudication. Further, from the inspection report dated 01.04.2023 (Annexure-4 series), it would manifest that 21 shops are constructed over Plot No. 4735.

6. Learned counsel for the petitioner submits that despite best endeavours of the petitioner, he did not get possession over the 21 shops as a result of which he faced losses and the authority initiated a certificate proceeding, accordingly, Certificate Case No. 02/2024-2025 has been instituted and the petitioner has been issued notice dated 09.09.2024 (Annexure-7 to I.A. No. 02 of 2024) issued under the signature of the Certificate Officer-cum-SDO, Sheohar asking the petitioner to deposit an amount of Rs.12,03,927/- which has been assailed in I.A. No. 02 of 2024. It is further submitted that the certificate case has been instituted without appreciating the facts of the case in its correct perspective. It is next submitted that petitioner prior to filing of I.A. No. 02 of 2024 had filed I.A. No. 01 of 2023 for staying the operation of letter dated 01.08.2023 (Annexure-5 to I.A. No. 01 of 2023) issued by the Circle



Officer, Piprahi asking the petitioner to deposit an amount of Rs.11,75,200/-.

7. I.A. No. 01 of 2023 and I.A. No. 02 of 2024 are allowed for consideration.

8. Learned State Counsel rebuts the submissions made by the learned counsel appearing on behalf of the petitioner and submits that in sum and substance, the dispute in the instant case which has arisen is that petitioner's claim that despite Deokuli Sairat being settled in his favour w.e.f. 01.04.2023 has not been given possession of 21 shops which is within the premises of Deokuli Temple situated on Plot No. 4735 measuring 71 decimals. It is further submitted that from perusal of the advertisement issued for settling Deokuli Sairat (Annexure-B to the counter affidavit), it would manifest that the same did not even remotely suggest that even 21 shops were to be settled with the highest bidder. It is next submitted that a specific pleading has been made at para 10 of the counter affidavit that 16 shops that are located in the temple premises of Deokuli Dham are being settled by the Sub-Divisional Magistrate, Sheohar on a monthly rental basis whereas the Sairat settlement with the petitioner was just for the year 2023-2024 on an annual basis as would manifest from Annexure-C to the counter



affidavit. It is also submitted that Annexure-C to the counter affidavit is a letter dated 13.11.2008 contained in letter no. 425 issued by the Additional Collector, Sheohar addressed to the Circle Officer, Piprahi wherein it is recorded that 14 shops constructed outside Baba Bhubneshwar Nath Temple would be settled by the SDO, Sheohar.

9. Learned State Counsel further submits that Baba Bhubneshwar Nath is none other than Lord Shiva and it is his idol which is worshiped at Deokuli Dham.

10. Learned State Counsel next submits that a copy of the counter affidavit was served on the learned counsel appearing on behalf of the petitioner but then the specific pleadings made at para 10 of the counter affidavit has not been rebutted. It is also submitted that petitioner by way of his affidavit had assured the authorities that he would pay rest of the amount by September, 2023 but then the said amount was never paid rather a partly sum of Rs.1,50,000/- was paid in September, 2023. It is submitted that the Circle Officer, Piprahi had also issued letter dated 01.08.2023 contained in letter no. 1024 addressed to the petitioner asking him to pay the remaining Sairat amount but then the same was not paid as a result of which the aforesaid certificate case came to be instituted.



11. After hearing the learned counsel for the parties, the Court finds merit in the submissions made by the learned State Counsel as it has been submitted that a specific pleading has been made at para 10 of the counter affidavit that the shops within Deokuli Dham is being settled by the SDM, Sheohar on a monthly basis and as such the shops were not part of the settlement made with the petitioner nor the advertisement issued for the settlement even remotely suggested that the settlement would also include the 21 shops which includes the 5 shops of which the settlement were cancelled by the Additional Collector, Sheohar. Further, the petitioner has not rebutted the specific pleading made by the State in its counter affidavit at para 10 which also leads to an irresistible conclusion that 21 shops were not part of the settlement of the Sairat in pursuance of the advertisement issued for settling Deokuli Dham Sairat, as such, the Court finds not merit in the writ application.

12. Hence, the writ application is dismissed.

(Satyavrat Verma, J)

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