

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11942 of 2016

- 1.1. Sanjeev Kumar Son of Late Rita Singh R/o - Mohalla - R/F- 196 Lohiya Nagar, Kankarbagh Colony, Police Station - Kankarbagh, District- Patna.
- 1.2. Kunal Kishore Son of late Rita Singh, R/o - Mohalla - R/F- 196 Lohiya Nagar, Kankarbagh Colony, Police Station - Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Depot Manager, Bihar State Beverages Corporation Ltd. Vidyut Bhawan-II, Jawahar Lal Nehru Marg,
3. The House Controller-cum-Sub Divisional Officer, Sadar, Patna.
4. The Assistant Accountant Patna Foreign Liquor Depot, Lakhni Bigha, Khagaul, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Adv.
For the Respondent/s	:	Mr. Girish Kumar, Adv. Mr. Vikas Kumar, Adv. Ms. Aradhana Kumari, Adv.
For the State	:	Mr. Manoj Kumar Yadav, AC to GA-10

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 27-11-2025 Heard Mr. Shamir Mehra, learned counsel for the petitioner and Mr. Vikas Kumar, learned counsel representing the respondent no. 2.

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

1. For issuance of a writ in the nature of mandamus directing and commanding the respondents to pay regular rent of the shop and premises of petitioner as fixed by the House Controller-cum-Sub-



Divisional Officer, Sadar Patna by order

dated 8.3.2016 communicated through memo no.206 dated 9.3.2016 as per agreement dated 16.3.2016 which has been made for from 22.3.2016 to 31.3.2017 and the petitioner made construction of her shop as per requirement of respondent no.2 as per instruction of lessee.

II. For issuance of a writ in the nature of certiorari to quash letter no.132 dated 15.4.2016 issued under signature of the respondent no.2 whereby and whereunder in the notice form under heading "Notice of lessee to determine lease" the respondent quite/vacate the premises of the petitioner beyond the agreement without cancelling the agreement.

III. For any other relief/reliefs to which the petitioner may be entitled under facts and circumstances of the case as well as under the law.

I.A. No. 01 of 2025

3. The present interlocutory application has been preferred for substitution of sole petitioner who died on 17.04.2021 leaving behind the heirs as recorded in paragraph 2 of the petition.

4. Learned counsel for the petitioners submit that



petitioners had no knowledge about the pendency of the writ petition and as such, the delay occurred.

5. Since the Corporation has no objection, I.A. No. 01 of 2025 is allowed.

6. Let the heirs, Sanjeev Kumar and Kunal Kishore be replaced with Rita Devi.

7. It is made clear that if at any point of time, it comes to the notice that beside Sanjeev Kumar and Kunal Kishore, the other heirs are also there whose name has not been incorporated, the two petitioners may face serious consequences.

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8. The petitioner owns a piece of land in Vijay Nagar, Patna near Bypass opposite Ford Hospital. She came into lease agreement with the respondent no. 2 on 16.03.2016 for the aforesaid plot which was to be used by the Corporation. The agreement was for the period of one year beginning 22.03.2016 to 31.03.2017 with further clause of extension subject to their mutual consent (Annexure-4 to the petition).

9. As the story unfolds, the prohibition policy came into existence in the State of Bihar in the first week of April, 2016 vide Government notification under 19(4) of the Bihar



and Odissa Excise Act (memo no. 1485) dated 05.04.2016 by which the sell and consumption of foreign liquor in the whole of State of Bihar was prohibited.

10. The plot was taken for storage of liquor, pursuant to the said Government decision, the respondent no. 2 had no use of the said plot of the petitioner and accordingly, a notice was issued to her on 15.04.2016 with their intention to determine the lease and direction was given to take over the same by 01.05.2016 whereafter they will have no relationship as lesser/lessee (Annexure-5 to the petition).

11. Aggrieved, the present writ petition.

12. The State came up with the counter affidavit stating the aforesaid facts that in the compelling circumstance, the said notice was issued the godown was of no use and as such, the said notice issued. The further submission is that for such case, writ petition is not maintainable.

13. Learned counsel for the petitioner submits that though the agreement lease deed is silent on how to get out of the said agreement in the midst of the lease period, at least the respondent were required to be given thirty days notice. As the notice was issued on 15.04.2016, the period should have been up to 14.05.2016. The submission is that in sum, the lady was



entitled for the rent atleast from 22.03.2016 till 14.05.2017. He submits that the lady has received the amount from 22.03.2016 to 30.04.2016.

14. Further, on the point whether the writ petition is maintainable or not, as it is a contractual matter, learned counsel for the petitioner, Mr. Mehra has taken this Court to a **Division Bench** order of **Patna High Court in CWJC No. 230 of 2009 (United Breweries Limited Vs. the State of Bihar & Ors.)** with specific reference to paragraph 4 which read as follows:

4. It is submitted by counsel for the fifth respondent that the writ petition is not maintainable, as it is based on a contractual matter. In the counter affidavit filed by the Corporation, it is stated that there is no contract between the petitioner and the Corporation and therefore, the petitioner cannot challenge the same. Before going into the merits, we shall consider the above aspect first. It is not disputed that the impugned order was issued by the Corporation, a company registered under the Companies Act, on account of the monopolistic privilege granted to it under the provisions of the Bihar Excise Act. The State's power to deal with distribution and supply of liquor was relegated to the Corporation. Since the Corporation has got monopoly and exclusive privilege in the supply and distribution of



liquor in the State and has framed its own Liquor Policy, it has to be accepted by all manufacturers and retail dealers who were dealing with them. The Corporation was established by the State Government and it comes within the meaning of 'State' as The defined under Article 12 of the Constitution of India.

15. This Court has taken note of the aforesaid order and holds that the writ is maintainable.

16. Learned counsel representing 'the Corporation' opposes the prayer submitting that the notice in question was passed under compelling substance as 'the Corporation' had nothing to do with the said godown when the liquor prohibition came into existence on 05.04.2016. Still, while issuing the notice on 15.04.2016, they made the payment till 30.04.2016.

17. Having gone through the facts of the case and the submissions put forward by the parties, this Court observed as follows:

18. The Corporation entered into a lease deed with the petitioner's mother which was valid from 22.03.2016 to 21.03.2017. Admitted fact is that on 05.04.2016, the liquor policy came into existence in the whole State of Bihar and the State respondents have rightly recorded that after the said policy, the godown was of no use for 'the Corporation'.



19. However, to be fair to the petitioner, at least 30 days notice should have been given and 'the Corporation' cannot decide on its own on restricting the period or when to leave the premises and/or make the payment. Thus, in the opinion of the Court, the petitioners are entitled for the rent for the period 22.03.2016 when the lease deed commenced till 14.05.2017 when the minimum thirty days notice should have come to an end.

20. It has already been informed that the petitioner has received the amount from 22.03.2016 to 30.04.2016. The heirs are entitled to additional rent from 01.05.2017 to 14.05.2017. This has to be cleared by 31.12.2025 failing which the petitioners shall be entitled to the 9% interest on the amount from 01.01.2026 till the actual payment is made.

21. With the aforesaid observation, the writ petition stands disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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