

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18564 of 2018

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Aditya Jhunjunwala, Son of Late Subodh Kumar Jhunjunwala, resident of
Buddha Marg, P.S. Kotwali, District-Patna (Bihar).

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Commissioner, Patna.
4. The Collector, Patna.
5. The Additional Collector (Land Revenue) Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Singh, Sr. Advocate
For the Respondent/s : Mr.Dhurjati Kumar Prasad, GP-14

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 05-01-2026 Heard Mr. Rajeev Kumar Singh, learned Senior

Counsel for the petitioner and Mr. Dhurjati Kumar Prasad,

learned State counsel.

2. The present petition has been preferred for the
following relief/s:

*(i) for the issuance of or in the nature of
certiorari quashing the order dated
01.08.2017 passed by the learned Divisional
Commissioner, Patna in the Eviction Appeal
No. 105 of 2016 which has been passed
without affording any opportunity of hearing
to the petitioner and by which the Eviction*



case filed by the Collector Patna with regard to Khas Mahal Plot No. 22 and 23 situated on the Patna-Gaya Road (now known as Budh Marg) has been accepted and the Collector has been directed to evict persons who are in illegal occupation of the said plots invoking the provisions of the Khas Mahal policy 2011. Moreover, the said order passed by the learned Divisional Commissioner is completely illegal being in teeth of the judgment dated 18.10.2015 passed by this Hon'ble Court in CWJC No. 19325 of 2015 which still holds the field and whereunder it has been held that the 2011 Khas Mahal policy of the State Government cannot be made applicable to the pre-existing lease(s) entered in between the State and individual persons and such leases would continue to be governed by the provisions of the Khas Mahal Manual and the covenants of the lease;

(ii) for the issuance of a writ of or in the



nature of mandamus directing the respondent authorities to forthwith complete the necessary formalities for the completion of settlement of the plot in question with the petitioner in terms of the decision of the Department of Revenue and Land Reforms, Government of Bihar, Patna as contained in the Letter dated 14.11.1998 (Annexure P2);

(iii) for issuance of an appropriate writ/order or direction staying the operation of the order dated 01.08.2017 passed by the learned Divisional Commissioner, Patna in Eviction Appeal No. 105 of 2016 during the pendency of the instant Writ Petition;

(iv) for the issuance of any other or further order as this Hon'ble Court may deem fit in the facts and circumstances of the case and in the interests of justice..

3. The matter relates to Khas Mahal plot nos. 22 and 23 situated at old Patna-Gaya road (now Budh Marg, Patna). The lease of the said land was executed in the year 1922 with late Narayan Sah for the period of 50 years and later for the



period of 30 years on 29.03.1973 (effective 22.05.1972) with the family members of Satya Narayan Sahay and Tribhuvan Sahay and later Tribhuvan Sahay was a childness executed a will in favour of Satya Narayan Sahay and affirmed under the Probate Case No. 03 of 1980.

4. So far as the land belonging to Madan Sahay is concerned, the application for renewal was rejected with a direction to Collector, Patna to resume the possession which was done on 22.03.1993. This was challenged in Patna High Court and status quo was made and ultimately, possession restored to the aggrieved persons.

5. The case of the petitioner is that pursuant to the agreement with one of the lease holder, he entered the premises and continued on it. Further, pursuant to the changes in the Khas Mahal Policy brought forward by the State Government, the petitioner represented before the respondents and pursuant thereto, the Collector, Patna vide memo no. 278 dated 05.05.1999 having taken note of that he is under tenancy of the said plot and has made representation before the Revenue Department directed him to prefer a fresh petition (Annexure-4 to the petition).

6. It is the case of the petitioner that immediately



thereafter, on 11.06.1999, he made a representation before the Collector, Patna. The case of the petitioner is that no step was taken by the Collector in the matter and he was under the impression that the case is pending consideration but in the meantime, came the order of the Divisional Commissioner, Patna in **Execution Appeal No. 105 of 2016 (State of Bihar vs. Tribhuvan Sahay & Ors)** disposed of on 01.08.2017 by which taking note of the fact that the lease period has come to an end in the year 2002 and original lease holders have not made any fresh representation, in that background, they are not entitled to continue on the land in question and as such are required to be evicted (Annexure-P/9 to the writ petition).

7. Learned Senior Counsel for the petitioner submits that though original lease holders failed to make any representation and rightly showed that it is in possession of the present petitioner, the fact remains that the respondents took note of their possession and opened the channel of communication as recorded above but instead of taking a decision in the matter, in came the order in question, forcing him to move before this Court. The submission is that the Collector should have taken the matter to its logical conclusion on the petition preferred by him. Further, submission is that if a



fresh lease deed is executed in his favour, not only he is ready to pay all the amount, he is further ready to clear the arrears beginning in the year 2002.

8. A counter affidavit has come on behalf of the respondent and the learned State counsel submits that the order in question was passed against the original lease holders, they are neither the petitioners nor impleaded as respondents in the case and as such the petitioner do not have a case. He, however, concedes that the channel of communication was opened in the year 1999 (during the period the lease deed was continued), which came to an end in the year 2002 and there is nothing on record on the action of the steps taken by the State-respondent.

9. Having taken note of the entire facts, it is evident from the Annexure-4 that:

(i) originally, the lease was executed with the family members of Rajendra Sahay, Ranjeet Sahay and Sanjeev Sahay;

(ii) it is further accepted fact that subsequently, the petitioner came in part of the said premises pursuant to agreement made by one of the lease holder;

(iii) It is again admitted by the State



*respondent that a channel of communication
was opened with him;*

(iv) he is continuing on the said premises;

*(v) the original lease holders have not made
any representation for renewal of lease deed.*

10. Further, the learned State counsel has rightly pointed out that though the order has not been passed against the petitioner, he came forward and challenged it but failed to implead three original lease holders/heirs as respondents in this case. However, taking note of the fact that the Collector wanted him to reply on whether he is interested in getting the lease executed or not, he promptly made a representation, it was natural for the Collector, Patna to take the same to its logical conclusion.

11. The original communication is of the year 1999, we are in the year 2026. Again, at the cost of the repetition, it is noted that earlier, till the filing of the writ petition, the petitioner was continuing on the said part of the premises and later after order of the coordinate bench on 20.12.2019 when interim relief was granted to the petitioner, he is present in the premises till date, in that background, it would be appropriate that he represents before the Collector, Patna alongwith all the



supporting documents in next four weeks and the Collector, Patna shall be hearing the parties and taking the matter to its logical conclusion by a reasoned order.

12. Till the order is passed by the Collector, Patna, the interim protection granted to the petitioner on 20.12.2019 to continue.

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

(Rajiv Roy, J)

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