
(2023) 05 PAT CK 0011

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 4449 Of 2017

Chandrakala Devi

APPELLANT

Vs

Begusarai Municipal
Corporation

RESPONDENT

Date of Decision: May 1, 2023

Hon'ble Judges: Satyavrat Verma, J

Bench: Single Bench

Advocate: Ansul, Anuj Kumar, Ravi Bhushan Verma, Dr. Amitesh Kumar, Ravindra Kumar Rai

Final Decision: Dismissed

Judgement

Heard learned counsel for the petitioner, learned counsel for the Municipal Corporation, Begusarai and learned counsel for the private respondent no.

6.

Learned counsel for the petitioner submits that the husband of the petitioner, namely, Late Yogendra Sah got settled Shop No. 52 in Goskhana under

Begusarai Municipal Corporation, Begusarai by the Executive-cum-Special Officer in the year 1998 in the name of his third son Chandan Kumar

(husband of the respondent no. 6), accordingly, an agreement dated 30.04.1998 was executed in between Chandan Kumar and the Corporation. The

shop was running in the name of Kanhaiya Hotel by the family as a family business. Learned counsel for the petitioner further submits that Yogendra

Sah died in 2014 thereafter the shop was being run by his five sons under the guardianship of the petitioner and the entire family was being

maintained. It is next submitted that Chandan Kumar died on 22.10.2015 and after his death in order to avoid dispute in the family between the

brothers a fresh settlement was entered with the consent of all the family members including the sons and respondent no. 6 in the name of petitioner

with regard to the shop in question, accordingly, an agreement was entered in the name of the petitioner on 21.01.2016 and the same was accepted by

the Municipal Commissioner, Begusarai (Annexure-1 series to the writ application). It is also submitted that respondent no. 6 on 27.10.2016 made an

application to the Municipal Commissioner, Begusarai to settle the Shop No. 52 in Goskhana in her name on compassionate ground, accordingly,

notices were issued. The petitioner appeared before the Municipal Commissioner and stated all the relevant facts and controverted the claim of the

respondent no. 6. It is further submitted that thereafter an inquiry was directed by the Corporation based on which the Junior Engineer of the

Corporation enquired and submitted his report dated 09.02.2017 (Annexure-2 to the writ application) wherein it was specifically recorded that

agreement of the shop was in the name of Chandan Kumar but the shop was being run by Yogendra Sah along with his sons and after death of

Yogendra Sah the shop was being run by his sons. It is next submitted that the Municipal Corporation after receiving the report dated 09.02.2017

cancelled the agreement dated 21.01.2016 executed in favour of the petitioner with regard to settlement of Shop No. 52 by order dated 27.02.2017

(Annexure-3 to the writ application) and directed to execute the agreement of the shop in favour of the respondent no. 6.

Learned counsel for the petitioner, thus, submits that the present writ application seeks quashing of Memo No. 603 dated 27.02.2017 issued under the

signature of the Municipal Commissioner, Begusarai Municipal Corporation, Begusarai whereby the agreement dated 21.01.2016 executed in favour

of the petitioner for settlement of Shop No. 52 in Goskhana has been cancelled with a direction to execute agreement with regard to settlement of

Shop No. 52 in favour of the respondent no. 6 for the financial year 2017-18.

Learned counsel for the petitioner submits that it is not in dispute that the shop in question was settled in favour of the husband of the respondent no. 6

but then it was at the instance of her husband. It is further submitted that till her husband and the husband of respondent no. 6 were alive, the business

was being run by the entire family and it was only after the death of her husband and son i.e. husband of respondent no. 6, that an agreement was

entered amongst the family members based on which the agreement of the shop was executed by the Municipal Commissioner, Begusarai in favour of

the petitioner. Learned counsel also submits that the petitioner and her family member is also maintaining respondent no. 6 in lieu whereof she is being

given Rs.7,000/- per month for maintenance.

Learned counsel for the private respondent no. 6 submits that the issue is not whether the petitioner and others are maintaining her, the issue is

whether the maintenance being given is sufficient or not. It is further submitted that what is not in dispute rather stands admitted is that the shop in

question was settled in favour of her husband, after his death, the respondent no. 6 was entitled for getting the licence of the shop in question executed

in her favour on compassionate ground. Learned counsel also submits that though the learned counsel for the petitioner has submitted that the

agreement in between the petitioner and the Municipal Commissioner, Begusarai was entered in terms of an agreement reached in between the family

members of the petitioner including the respondent no. 6 but then the respondent no. 6 is disputing any such agreement i.e. no agreement was ever

entered in between the petitioner and the family members including the respondent no. 6.

Learned counsel for the Municipality also supports the contention of the learned counsel appearing for the private respondent no. 6.

Considering the submission made by the parties, the Court is not inclined to interfere in the order dated 27.02.2017 issued by the Municipal

Commissioner, Begusarai Municipal Corporation, Begusarai cancelling the agreement executed in favour of the petitioner. Thus, the writ application is

dismissed.

At this stage, learned counsel for the petitioner submits that now the petitioner will not be paying any amount towards maintenance to the respondent

no. 6 to which learned counsel for the private respondent agrees.