

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6095 of 2023

Meena Kumari Sinha \

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The District Magistrate-Cum-Collector, Nalanda at Bihar Shariff
4. The Additional Collector, Nalanda at Bihar Shariff
5. The Circle Officer, Nalanda, Bihar Shariff
6. The Bihar Shariff, Municipal Corporation, Nalanda, Bihar Shariff through its Municipal Commissioner, Durgasthan, Bihar 803101
7. The Municipal Commissioner, Bihar Shariff Municipal Corporation, Nalanda at Bihar Shariff
8. The Junior Engineer, Ward No.25, Bihar Shariff Municipal Corporation, Bihar Shariff, Nalanda.
9. The Assistant Engineer, Ward No. 25, Bihar Shariff Municipal Corporation, Nalanda at Bihar Shariff, Nalanda.
10. The Revenue Officer, Bihar Shariff Municipal Corporation,

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pratik Kumar Sinha, Advocate Mr. Vikash Kumar, Advocate
For the State	:	Mr.Rishi Raj Sinha (SC-19) Mr. Manoj Kumar Sinha, AC to SC-19
For Municipal Corporation	:	Mr. Gyan Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 27-06-2023

Learned counsel for the petitioner submits that he may be permitted to delete the second prayer which relates to setting aside of part of approved building plan (as per letter no. 2373 dated 30.07.2021) with liberty to file fresh writ petition with



regard to the said cause.

2. Permission Accorded.

3. The matter relates to demolition of the boundary wall of the petitioner by the Bihar Sharif Municipal Corporation illegally as claimed

4. The petitioner moved before this Court for the following reliefs :-

(i) to issue appropriate writ/writs or direction/directions, order/orders commanding the respondent no. 7, Municipal Commissioner, Bihar Sharif Municipal Corporation, Bihar Sharif, Nalanda (hereinafter in short "the Corporation") to pay adequate compensation to the petitioner as the authorities of Corporation has demolished her temporary room alongwith an iron rod gate affixed on 13/2/2023 which was on her private land and there was no encroachment made by her; admeasuring to an area of about seven decimals bearing Kheshra Nos. 181 & 182, Khata No. 134, Village-Bhainshasur, Ward No.25, Bihar Sharif, Nalanda;

(ii) to issue appropriate writ/writs or order/orders or direction/directions upon the authorities of the Bihar Sharif Municipal Corporation directing them to grant further relief/reliefs to the petitioner as may be entitled in the particular



facts and circumstances.

5. It has been submitted by the learned counsel for the petitioner that one fine morning of 13.02.2023, the authorities/staffs of the Municipal Corporation, Biharsharif came armed with JCB and demolished her boundary wall.

6. The further submission with the help of paragraph 24 of the writ petition is that prior to the said demolition, no notice was ever given to her. Learned Counsel as such submits that the petitioner is not only entitled for re-construction of the illegally damaged boundary wall, she is also entitled for suitable compensation.

7. A counter affidavit has been filed on behalf of the Respondents nos. 3 to 5 i.e. the District Magistrate-cum-Collector, Nalanda at Biharsharif, the Additional Collector, Nalanda at Bihar Sharif as also the Circle Officer, Biharsharif duly put on affidavit by the Circle Officer, Biharsharif, the respondent no. 5.

8. It is important to incorporate paragraphs 8 and 9 of the said counter affidavit which read as follows:

8. "That however, in view of the present writ petition, the land in question was got measured by the Anchal Amin in presence of the



husband of the petitioner using the physical map on 22.05.2023 and as per measurement report dated 22.05.2023 and Najri Naksha, the area of the land in question was found about 7 decimal. It is relevant to mention here that prior to the said measurement, the land in question was measured on 11.05.2023 at the request of petitioner, in which area as claimed by the petitioner was found intact and the same was free from any encroachment. An enquiry team consisting of DCLR Biharsharif and Circle Officer, Bind has been constituted in the matter.

9. That Municipal Corporation, Biharsharif is requested to reconstruct the damaged boundary wall of the petitioner.”

9. The learned State Counsel, on the basis of counter affidavit submits that they have already requested the Municipal Corporation, Biharsharif to get the damaged boundary wall reconstructed.

10. Another counter affidavit has been filed on behalf of the Respondent nos. 6 to 10 duly put on oath by the Municipal Commissioner, Biharsharif. As per it, there was



encroachment proceeding against 127 encroachers, however, name of the petitioner did not figure in the said list. The same statement has been made in paragraph 11 of the reply.

11. It has been further stated in paragraph 12 that a meeting was held with the District Administration on removal of the encroachment and it was a joint drive. The further fact that has been recorded in the counter affidavit that thereafter following the procedure of law, the encroachment was removed.

12. A perusal of the counter affidavit of the Municipal Commissioner, Biharsharif shows that no reply has been given on the point whether the petitioner was put on notice before demolition of the boundary wall or not.

13. This becomes important in the backdrop of the statement made that in the list of 127 encroachers, the name of the petitioner did not figure.

14. The District Administration, on the other hand, has also come to a conclusion that the demolition of the boundary wall of the petitioner was wrong and as such has already requested the Municipal Commissioner of Biharsharif to get the same reconstructed/repaired.

15. Learned counsel appearing for the Municipal Corporation submits that they are ready to get the same



reconstructed/repaired.

16. The question, then arises whether the petitioner is entitled to the compensation or not.

17. The admitted facts are that in the list of 127 encroachers, the petitioner did not figure. Further, there is no reply on the point whether she was ever noticed. In that background, it was nothing but high handedness on the part of the Municipal Authorities in straightaway going with the JCB and demolishing the wall of the petitioner.

18. At this stage, learned counsel for the Municipal Corporation, Biharsharif submits that it was done under the leadership of Circle Officer, Biharsharif and he has attributed Annexure G i.e. memo no. 134 dated 09.02.2023 issued by the Sub-Divisional Officer, Biharsharif to support his case.

19. Countering the said statement, learned State Counsel submits that a bare perusal of the said order shows that though there was joint meeting with the District Administration, it was the Municipal Corporation, Biharsharif which demolished the boundary wall of the petitioner.

20. It is unfortunate that two important authorities of the district are trying to throw ball in each other's court.

21. The petitioner by way of paragraph 15 of the has



categorically stated that it was the Corporation including its JCB driver who refused their request to stop demolition and with the help of the photographs attached with the petition, the learned counsel for the petitioner submits that now the authorities of the Corporation are trying to pass the buck on the district administration.

22. In view of the categorical statement made in paragraph 15 of the petition, not rebutted by the Municipal Corporation, Biharsharif who also holds the post of Managing Director of the smart city, Biharsharif as also the averment of the District Administration in the considered view of the Court, for such illegal act on the part of the authorities of the Municipal Corporation, the petitioner is entitled to a cost of Rs. 50,000/- from the respondent no. 6 to be paid to her by a demand draft issued through a local bank within four weeks from today.

23. It will be open to the Municipal Commissioner, Biharsharif to fix the responsibility upon the officials who went ahead and demolished the wall of the petitioner without the petitioner being in the list of encroachers and/or in absence to any notice to her.

24. So far as reconstruction/repair of the wall is concerned, the same shall be completed by the respondent no.



6within a period of eight weeks from today.

25.Accordingly, the writ petition stands disposed of
with the aforesaid observations.

(Rajiv Roy, J)

Jagdish/Kiran/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	03.07.2023
Transmission Date	

