

(2015) 01 PAT CK 0199

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.11803 of 2013

Dr. Ashok Kumar Sinha

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 15-01-2015

Acts Referred:

Citation : (2015) 1 BBCJ 382

Hon'ble Judges : L. Narasimha Reddy, C.J. and Gopal Prasad, J.

Bench : Division Bench

Advocate : Mr. Sanotsh Chandra Bhaskar, Advocate, for the Petitioner in CWJC No. 11803 of 2013; Mr. Shyam Kishore Sharma, Senior Advocate and Mr. Myank Rukhaiyar, Advocate, for the Respondent-State in CWJC No. 11803 of 2013; Mr. Prasoon Sinha, Advocate, for the Respondent-Corporation in CWJC No. 11803 of 2013; Mr. Arun Kumar, Advocate, for the Intervenor Applicant in CWJC No. 11803 of 2013; Mr. Shailesh Kumar Singh, Advocate, for the Petitioners in CWJC No. 16671 of 2013; Mr. Pratik Kumar Sinha, A.C. to G.A. XII, for the Respondent-State in CWJC No. 16671 of 2013; Mr. Prasoon Sinha, Advocate, for the Respondent-Corporation in CWJC No. 16671 of 2013; Mr. Rajeev Ranjan, Advocate Mrs. Bela Singh, Advocate, for the Intervenor in CWJC No. 16671 of 2013; Mr. Apurva Kumar, Advocate, for the Petitioner in CWJC No. 3324 of 2014; Mr. Devendra Kr Sinha, A.A.G.-2 and Mr. Alok Kumar Rahi, A.C. to A.A.G.-2, for the Respondents in CWJC No. 3324 of 2014

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, C.J. (Oral) - This batch of writ petitions, is filed as public interest litigations complaining that there is indiscriminate encroachment for establishment of cattle sheds on public land and road, in Patna and on account of the same, there is serious threat to the hygiene and cleanliness, free flow of traffic, in certain areas of Patna Municipal Corporation. Certain supporting material is also enclosed.

2. This Court issued notice to the Patna Municipal Corporation and other respondents. Ever since 04.07.2013, orders have been passed from time to time

till recently indicating various measures. It is stated that substantial number of cattle sheds has been removed from the public places and some are still existing.

3. The grievance of the owners of the cattle sheds is that though they are willing to maintain cattle sheds on their private land, the authorities of the Municipal Corporation did not permit the same and they are left with no alternative than to undertake the activity in the public places.

4. Heard Sri Santosh Chandra Bhaskar, learned counsel for the petitioner, and Sri Parsoon Sinha, learned counsel for the Patna Municipal Corporation.

5. The problem is one of the hygiene and cleanliness coupled with encroachment. Whatever be the justification pleaded by the contesting respondents, no person can be permitted to establish cattle sheds on public land. We have also come across such cattle sheds being established in the precincts of Universities, Colleges, Government Hospitals, parks, road margins etc.

6. On behalf of the owners of the cattle sheds it is pleaded that necessity for them to switch over to public places arose on account of highhandedness of the Municipal Corporation in removing the cattle sheds when they are established on private places.

7. We do not intend to record any finding in that behalf. However, if the owners of the cattle sheds are willing to shift the sheds on their own lands, there cannot be any plausible explanation, at least for the present. We are also aware of the fact that the Municipal Corporation Act contains provision for grant of permission for establishment of cattle sheds and the like, subject to certain conditions.

8. Having regard to the entire gamut of facts, we dispose of the writ petition with the following directions:

(a) The cattle sheds that are now existing on the public lands, be it on the roads, or other places, shall be removed within six weeks from today. It shall be ensured that the cleared places are not encroached once again and the officials of the Patna Municipal Corporation, Revenue Department and the Police Department shall be held responsible in this behalf.

(b) Whenever the owners of the cattle sheds intend to shift them to private places, the Municipal Corporation shall not raise any objection for the present. However, they shall be entitled to inspect them in due course and indicate the measures, if any, to be taken for the maintenance of cleanliness and hygiene, but not into the title or other related aspects.

(c) It shall be the duty of the owners of the cattle sheds, established on their private land, to remove the cow dung and other wastes generated from the cattle sheds, at least once in three days, to be dumped in the outside of the limits of Municipal Corporation. Failure in this behalf shall invite penalty of Rs.500/- on each occasion. The Municipal Corporation shall keep a separate fund of that amount for steps to enforce hygiene of cattle sheds.

(d) The owners of private cattle sheds shall also not cause any nuisance or inconvenience to the neighbours and other persons in the locality; nor shall they cause any hindrance to the free flow of traffic in the place.

Deviation by anyone, in this behalf shall be treated as Contempt of Court, per se.

9. Interlocutory applications, if any, shall stand disposed of. There shall be no order as to costs.

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