

(2020) 01 PAT CK 0021

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 18274 Of 2019

Jitendra Kumar And Ors

APPELLANT

Vs

State Of Bihar Through District And Ors

RESPONDENT

Date of Decision : 08-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0021

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Kalpana, Rakesh Ambastha, Prabhakar Singh

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners; learned AC to AAG 7 for the State and learned counsel for the Patna Municipal Corporation (hereinafter referred to as the 'Corporation').

2. The petitioners have moved the Court for the following reliefs:

"(i) In the nature of "Mandamus" directing and commanding the respondent authorities not to demolish perspective shops of the petitioners for which they have already been paying rent to the landlord regularly.

(ii) For declaration that the shops of the petitioners were not constructed over a Government Land nor have the petitioners encroached any public land in any manner."

3. The grievance of the petitioners basically relates to a so called announcement with regard to demolition of structures by the administration.

4. The petitioners have tried to demonstrate that they have been allotted shops by the Sri Sri 108 Navlakha Durga Mandir Campus located opposite New Sachivalaya, Mangles Road, Patna.

5. Learned counsel for the Corporation raised a preliminary objection and

submitted that only on some misconceived perception the writ application has been filed as neither copy of any notice nor material to show demolition has been brought on record. It was further submitted that even if the contention of the petitioners is accepted for the sake of argument, at best, the land belongs to the Mandir and the management of the same has to move before the appropriate forum, if any structure constructed by them or land belonging to them is threatened to be demolished or taken over by the authorities. It was submitted that the same not having been done, at the instance of the petitioners, the Court may not interfere in the matter.

6. Having considered the aforesaid and upon going through the pleadings on record, the Court finds substance in the contention of learned counsel for the Corporation.

7. The petitioners merely claim to be tenants of the aforesaid Mandir and, thus, when the land does not belong to them, it is the landlord, i.e., the Mandir/its trust which has to take steps if its construction/land is either threatened to be demolished or taken over by the authorities. As no such averment has been made in the writ application and also no supporting document brought on record to indicate that such steps have been taken by the landlord, the Court finds that the reliefs prayed for by the petitioners in the present writ application cannot be granted on such materials/averments.

8. For reasons aforesaid, the application stands disposed off with liberty to the petitioners to take steps before the appropriate forum, in accordance with law, if so required.