

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3142 of 2026

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Surendra Prasad Son of Hira Lal Sah, Resident of Village- Kaurihar, P.S.- Raxaul, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Govt. of Bihar, Patna.
2. The District Magistrate, East Champaran.
3. The Executive Officer, Nagar Parishad Raxaul.
4. Chairman, Nagar Parishad Raxaul Makardei ward No. 7.
5. Prem Chandra Prasad, son of Ram Deo Sah, Resident of Village-Nakardei, P.S.-Nakardei, District-East Champaran of present Ward No. 21 Shed No. 37, Sabji Bazar, Nagar Parishad Raxaul District-East Champaran.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4644 of 2024

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1. Prem Chandra Prasad Son of Ramdev Sah
2. Ramdev Sah Son of Late Chanchal Sah
Both are resident of Village- Nakardei, Ward No.- 7, P.O.- Noniyadih, P.S.- Nakardei, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, East Champaran.
2. The Executive Officer, Nagar Parishad Raxaul, P.O. and P.S.- Raxaul, District- East Champaran.
3. The Chairman, Nagar Parishad Raxaul, P.O. and P.S.- Raxaul, District- East Champaran.
4. The Sub Divisional Officer, Raxaul, P.O. and P.S.- Raxaul, District- East Champaran.
5. Tax Inspector (Krishna Nandan Singh) Nagar Parishad Raxaul, P.O. and P.S.- Raxaul, District- East Champaran.
6. Sanjay Baitha Accountant cum Head Clerk Nagar Parishad Raxaul, P.O. and P.S.- Raxaul, District- East Champaran.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 3142 of 2026)

For the Petitioner/s : Mr. Subodh Prasad, Advocate

For the State : Mr. Rajesh Kr. Sinha, AC to GP-23



For the Resp. no.3 : Mr. Devi Das Srivastava, Advocate
For the Resp. no.5 : Mr. Md. Shahnawaz Ali, Advocate
(In Civil Writ Jurisdiction Case No. 4644 of 2024)
For the Petitioner/s : Mr. Md. Shahnawaz Ali, Advocate
For the State : Mr. Sudhir Kumar Upadhayay, AC to GP-7
For the Zila Parishad : Mr. Devi Das Srivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

C.A.V. JUDGMENT

Date : 19-06-2026

Heard learned counsel for the parties.

2. Both the writ applications arising out of the same subject matter(s) ie shop no.37 and 38 situated at Sabzi Bazar, Raxaul and being under the Nagar Panchayat, Raxaul are being heard and decided by this common order.

3. CWJC no.4644 of 2024 has been filed by the petitioners Prem Chandra Prasad and Ramdev Sah for the following relief(s):

“i) A writ, order and direction in the nature of certiorari for quashing of the notice no. 469 & 470 dated 21.12.2023, issued by executive officer Nagar Parishad Raxaul whereby and where under it is directed to the petitioners to vacate the shop of Nagar Parishad, Raxaul and to depute Magistrate for dispossessed the petitioner from the shed shop no-37 & 38 Nagar Parishad Raxaul, be issued.

ii) For a direction to the respondent no.2 and 3 to allot and to register the lease agreement in the name of the petitioner which was submitted vide document no. 4854 dated 02.02.2017 and 4855 dated 02.02.2017 in the name of the petitioners as the



petitioner is in physical and exclusive possession of the shed shop as per the resolution of the board of Nagar Parishad Raxaul, be issued.

iii) For a direction to the respondent no. 2 & 3 to open the lock of the shop of the petitioners which was illegally locked by respondent no. 5 & 6 without any order passed by the any competent court of law, be issued.

iv) Any other relief as the petitioners are entitled to.”

4. CWJC no.3142 of 2026 has been filed by the petitioner Surendra Prasad for the following relief(s):

“(i) For issuance of writ in the nature of mandamus directing and commanding the Respondents to hand over shop no. 37 situated at Sabji Barar, Raxaul on the basis of agreement dated 14-5-2013 executed in between Nagar Parishad Raxaul and the petitioner.

(ii) For issuance of writ in the nature of Mandamus directing and commanding the Respondents to handover the possession of said shop no. 37 to the petitioner in the light of agreement executed by the Respondent no.3.

(iii) To grant any other relief or reliefs under which the petitioner entitle to the facts and circumstances of the case.”

CWJC no.4644 of 2024

5. The case of the petitioners in CWJC no.4644 of 2024 is that the father and grandfather of the petitioners were doing business in the land of Nagar Parishad, Raxaul since long.



The Board of the Nagar Parishad decided to construct shops for the persons doing business and as directed by his father, the petitioner no.1 deposited the cost of the shop to the tune of Rs. 10,000/ and was granted money receipt dated 12.12.1996, however, the petitioners were not allotted the shop against the license fee deposited by them.

6. It is the case of the petitioners that they were doing business in the shed of the shops near shop nos.37 and 38, however, their representation was rejected without considering their grievances. On enquiries being made under the Right to Information Act, it is the case of the petitioners that from the notices, money receipts, information received under the Right to Information Act, etc., it would be evident that shop nos.37 and 38 were to be allotted to the petitioners. However, the respondents illegally allotted the same to a businessman of the Sabji Mandi inspite of the petitioners having deposited the amount for the same in the year 1996.

7. It is the case of the petitioners that inspite of several communications between the petitioners and the Nagar Parishad and also the petitioners having submitted agreement papers vide stamp no.4854 dated 2.2.2017 and 4855 dated 2.2.2017 of Rs. 100/ each, the agreement was not entered into nor was the shop



allotted to them. The petitioners finally moved this Court in CWJC no.440 of 2020 which was disposed of by order dated 31.7.2023 with a direction to the petitioners to move before the Nagar Parishad with a proper representation which was to be decided within a period of three months. The petitioners filed a representation before the Nagar Parishad which was rejected by order dated 19.12.2023. Pursuant thereto, notice was issued on 21.12.2023 asking the petitioners to vacate shed nos.37 and 38 within a period of seven days which is impugned in the instant application.

CWJC no.3142 of 2026

8. The case of the petitioner in CWJC number 3142 of 2026 is that he filed an application for allotment of shop situated at Sabzi Bazar, Raxaul for his livelihood. After following due procedure, the shop was settled in his favour and an agreement was entered into on 14.5.2013 between the petitioner and the Executive Officer, Nagar Parishad, Raxaul. As per the agreement which was for the period from 1.9.2012 to 31.8.2027 with respect to shop no.37, the petitioner had to deposit rent at the rate of Rs. 350/ per month.

9. It is the case of the petitioner Surendra Prasad that inspite of the agreement having entered into with him with



respect to shop no.37, the petitioner has not been given vacant possession of the said shop which continues to be illegally occupied by respondent no.5 ie Prem Chandra Prasad. Nevertheless, the petitioner continued to deposit the rent of Rs.350/ every month. In such circumstances, the petitioner Surendra Prasad prays for a direction to the respondent Nagar Parishad to hand over vacant possession of shop no.37 to the petitioner in light of the agreement executed on 14.5.2013.

10. It is submitted by learned counsel appearing for the petitioner Surendra Prasad that the respondent Nagar Parishad be directed to hand over vacant possession of shop no.37 to the petitioner for which an agreement was entered into between the parties on 14.5.2013 for the period from 1.9.2012 to 31.8.2027. In spite of the petitioner pursuing his matter in the Nagar Parishad, the shop continues in illegal possession of respondent no.5.

11. It is submitted by learned counsel appearing for the petitioner Prem Chandra Prasad that having deposited a sum of Rs.10,000/ as far back as in the year 1996, shop nos.37 and 38 in Sabji Mandi, Raxaul should have been allotted to him by the Nagar Parishad. Pursuant to the direction of this Court contained in order dated 31.7.2023 passed in CWJC no.440 of



2020, the respondent Nagar Parishad came to pass an order dated 19.12.2023 (Annexure R2/2 to the counter affidavit in CWJC No. 446 of 2020) which is absolutely illegal. The said order be set aside and the notice issued to the petitioner asking him to vacate the premises, impugned in the writ application be also quashed and the respondents be directed not to dispossess the petitioner.

12. Heard learned counsel for the parties and perused the material on record.

13. The relevant facts in brief are that on the petitioner Surendra Prasad filing an application for allotment of a shop situated at Sabji Bazar, Raxaul, after inviting application and following the procedure, the Nagar Parishad, Raxaul allotted the shop no.37 to Surendra Prasad and an agreement dated 14.5.2013 was entered into between the Executive Officer, Nagar Parishad Raxaul and the petitioner with respect to shop no.37 which is effective from 1.9.2012 to 31.8.2027.

14. On the other hand, it is not in dispute that no allotment has been made in favour of Prem Chandra Prasad or his brother Ramdev Sah, petitioners in CWJC no.4644 of 2024 and they continue to forcibly occupy the shop nos.37 and 38 on the basis of their stand that they had deposited a sum of



Rs.10,000/ and was granted a receipt by the respondent Nagar Parishad.

15. CWJC no.440 of 2020 came to be filed by Prem Chandra Prasad and Anil Sah (son of Ramdev Sah) which was disposed of by order dated 31.7.2023 with a direction to the petitioners therein to move before the Nagar Parishad, Raxaul and the Nagar Parishad was to decide the representation of the petitioner within the time fixed.

16. It transpires from the counter-affidavit filed on behalf of Nagar Parishad in CWJC no.4644 of 2024 that the representation of Prem Chandra Prasad and Ramdev Sah was considered by the Nagar Parishad on 19.12.2023. Time was granted to them for producing the documents with respect to the shop in question but they did not appear before the authority inspite of repeated adjournments. Finally, considering the material on record an order dated 19.12.2023 was passed holding the occupancy of Prem Chandra Prasad and Ramdev Sah over shed nos.37 and 38 in Nagar Parishad, Raxaul to be illegal and they were directed to vacate the same within a period of 7 days. It is the notice issued pursuant to this order to vacate that they have challenged by filing CWJC no.4644 of 2024.

17. Having heard learned counsel for the parties and



having considered the material on record including the contents of the writ application (CWJC no.4644 of 2024) and the affidavit filed, the Court finds no illegality in the order dated 19.12.2023 asking the petitioners in CWJC no.4644 of 2024 to vacate shop nos.37 and 38 within a period of seven days.

18. CWJC no. 4644 of 2024 being devoid of any merit is dismissed.

19. The petitioners therein are granted four week's time to vacate the premises of shed nos.37 and 38 in Nagar Parishad Raxaul, failing which the Executive Officer, Nagar Parishad Raxaul (respondent no.2) shall get the same vacated with the assistance of force, if required.

20. The District Magistrate, East Champaran, as also the Superintendent of Police, East Champaran shall provide all assistance to the Executive Officer, Nagar Parishad, Raxaul for vacating the premises as will be required by him and the cost involved shall be recovered by the Nagar Parishad from the petitioners of CWJC no.4644 of 2024, if necessary, under the Bihar and Orissa Public Demands Recovery Act, 1914.

21. So far as the case of Surendra Prasad, the petitioner in CWJC no.3142 of 2026 is concerned, the fact that an agreement dated 14.5.2013 was executed between him and



the Nagar Parishad Raxaul for allotment of shop no.37 and the agreement being for the period from 1.9.2012 to 31.8.2027 on a monthly rent of Rs.350 has all been admitted by the Nagar Parishad in paragraph no.3(h) of their counter affidavit filed in CWJC no. 3142 of 2026.

22. Besides the above, the statement of the petitioner Surendra Prasad that he has been depositing the rent of Rs.350/ per month as per agreement has also not been disputed by the respondent Nagar Parishad in their counter affidavit.

23. In view of the aforesaid facts, the following order is passed in connection with CWJC no.3142 of 2026:

(i) On getting the shop/shed no.37 vacated from respondent no.5, the Nagar Parishad shall immediately hand over the same to the petitioner Surendra Prasad, who shall continue to occupy the same as per the agreement dated 14.5.2013, till 31.08.2027.

(ii) The rent of Rs.350/ per month deposited by the petitioner from 1.9.2012 till the date the vacant shop/shed is handed over to the petitioner shall be returned/refunded to the petitioner by the Nagar Parishad within a period of three months.

(iii) The amount to be refunded shall be calculated for



completed months and no amount shall be payable for part of the month.

24. CWJC No. 3142 of 2026 stands allowed.

25. Both the writ applications stand disposed of.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	12.05.2026
Uploading Date	19.06.2026
Transmission Date	N/A

