

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6405 of 1999

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1.Mogal Rai
2.Paras Rai
3.Ram Naresh Rai
4.Luxman Rai
5.Lalit Rai
6.Lallan Rai @ Lallan, all sonsof Sri Mogul Rai, residents of
village/mohalla- Rajapur,, P.S. Sri Krishnapuri, Patna.

.... Petitioner/s

Versus

1.P.R.D.A. through its Vice Chairman, Mourya Lok Complex, Mohalla
Bandar Bagaicha, Dak Bungalow Road, P.S. Kotwali, Patna.
2. The Patna Regional Development Appellate Tribunal through its
Chairman, Mourya Lok Coomplex,Bandar Bagaicha, Dak Bungalow Road,
P.S. Kotwali, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamal Nayan Chaubey, Sr.Advocate.

For the Respondent/s : Mr. Nilu Agrawal, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 26-02-2015 No one appears for the Municipal Corporation.

In this case the petitioners are challenging the orders
dated 17.8.1990 and 3.6.1999 arising out of Appeal No.10 of
1990 passed by the Appellate Tribunal, Patna Regional
Development Authority, Patna, now Patna Municipal
Corporation. On the complaint of one Jaggu Rai a Complaint Case
No.85-A/88 was initiated.Jaggu. Jaggu Rai made a complaint that
the petitioners have constructed double storey building without
proper set off according to Building Bylaws. Whereas in reply the



petitioners took a plea that they have purchased an old house which has been remodeled on account of increase of family members on that account one more storey has been added and for that it appears from the order of the authority, he has already filed a plan for new construction. The erstwhile Vice-Chairman, P.R.D.A. after hearing the parties arrived at a conclusion that the petitioners have violated the Building Laws in view of fact that without getting the map sanctioned made some illegal construction over the plot. The order was challenged in appeal, the Tribunal has rejected the appeal petition without deciding the issue whether it was a new construction or was/is an old construction over which one more storey has been added.

From the order of appellate tribunal it shows that the petitioners had filed building plan for sanction which has not been disposed of.

This Court cannot give a positive finding about the nature of construction as to whether it was an old house or it was a new house over the land, so much so, a plan has been filed for sanction, as per the order of the appellate court the same has not been disposed of.

In view of the fact that the Patna Regional Development Authority is no longer in existence as it has merged

with Patna Municipal Corporation. In such view of the matter, the Appellate Tribunal Patna Municipal Corporation is directed to examine the case of the petitioner and pass order in accordance with law and while deciding the issue will also examine as to whether it was an old house or was a new house over a fresh land and the petitioner has violated the Building Laws and, if already sanction of plan is pending consideration, it should also be disposed of in terms of the Building Laws.

This writ application is disposed of with the aforesaid observation/direction.

(Shivaji Pandey, J)

AnilKrSinha/-

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