

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7434 of 2014

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Ashok Kumar Sinha, S/o Late R.B. Sahay, resident of Mohalla- S.K. Puri,
P.S- S.K.Puri, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, urban Development Department, Bihar, Patna.
2. The Patna Municipal Corporation, Mauryalok Complex, Dak Bunglow Road, P.S- Kotwali, District- Patna through its Municipal Commissioner.
3. The Executive Officer, Nutan Anchal, PMC, District- Patna.
4. The Police Inspector -cum- Officer- in- Charge, Buddha Colony, Police Station, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha
For the Respondent-State : Mr. Ajay, GA-12
For the Corporation : Mr. Sanjay Prakash Verma

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 06-07-2015 Heard the parties.

The petitioner has questioned the directives of the Station House Officer, Buddha Colony Police Station, district- Patna in issuing restraint order to the petitioner for making any construction on a piece of land bearing holding no.106/133 situated in Ward No.33 (old) 15 (new) at Mohalla- Sri Krishnanagar, P.S.- Buddha Colony, District- Patna.

Learned counsel for the petitioner relying upon a Bench decision of this Court rendered in the case of **M/s Asterisk Home Pvt. Ltd. vs. The State of Bihar** reported in **2014(1) PLJR 197** had submitted that in absence of any

proceeding being drawn by the Municipal Commissioner as to any illegality in the construction the restraint order was illegal.

A counter affidavit has been filed today and Mr. Sanjay Prakash Verma, learned counsel appearing for the Patna Municipal Corporation with reference thereto has submitted that an order was passed by the Division Bench in a public interest litigation arising from CWJC No.8152 of 2013 and pursuant where to general directions were issued by the Municipal Commissioner requiring the authorities of the Corporation to ensure that no apartment is being constructed in violation of the Municipal Laws and the Bye-laws framed thereunder. He further submits that it is in the light of the order passed by the Division Bench of this Court and the general directions issued thereunder that the Executive Officer had requested the Station House Officer of Buddha Colony Police Station to ensure its compliance and following which the notice in question was issued to the petitioner impugned at Annexure-2. He further submits that the illegal construction by the petitioner was confirmed as is manifest from the spot verification report present at Annexure-C and following which a vigilance case has been instituted against the petitioner bearing Vigilance Case No.159A of 2015 and a notice has been



issued thereunder whereby petitioner has been directed to stop all ongoing constructions as also to show cause as to why not the constructions made in deviation of the Municipal Law and the Bye-laws framed thereunder be demolished. Mr. Verma in view of the subsequent developments submits that at present the notice of the Station House Officer would not be suffering any illegality and if the petitioner is aggrieved, he may file an appropriate application for vacating the stay order in the vigilance proceedings.

I have heard learned counsel for the parties and I have perused the materials on record.

True it is that at the time when the notice was issued by the Station House Officer no vigilance case had been instituted against the petitioner but during the pendency of this application a regular case has been instituted following certain irregularities reported by a team of the official of the Corporation and a formal restraint order has also been issued by the Municipal Commissioner as is manifest from the notice dated 29.6.2015 present at Annexure-D.

In the circumstances existing I am not persuaded to interfere with the notice issued by the Station House Officer at the present stage and the petitioner, if so advised, may take

recourse to such other remedy for vacating the restraint order as advised before the appropriate forum.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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