

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.604 of 1995

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1.Ahsanuddin Amanullah son of Mr. N. Amanullah resident of 133 Patliputra Colony, Patna-13.
2.Iqbal Ahmad son of Mr. Ahmad, resident of 204 Emarat Patliputra, New Patliputra Colony, Patna-13.

.... Petitioner/s

Versus

1.The State of Bihar through the Secretary, Urban Development Department, New Secretariat, Patna.
2.The District Magistrate, Patna.
3.The Vice Chairman, Patna Regional Development Authority, Maurya Lok, Patna.
4.Mr. T.N. sharma son of not known to the petitioner, Assistant Engineer, Patna Regional Development Authority, Maurya Lok, Patna.

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

7 28-01-2015 When this writ application was filed on

24.01.1995, relief of the petitioners had read as follows:-

“Issuance of any appropriate writ/writs, order/orders, direction/directions to the respondents not to demolish any portion of the building known as “Yusuf Building” which has been built on the land of the petitioner legally and without any encroachment and according to the approved plan in the year 1924;

Issuance of any appropriate writ/writs, order/orders, direction/directions permanently restraining the respondents from taking any coercive action against the petitioners and the building and land in question;

Issuance of any appropriate writ/writs, order/orders, direction/directions awarding exemplary cost against the respondents, especially respondent no. 4 in his personal capacity to compensate the petitioners for the illegal demolition and for the loss of social prestige.”

Let it be noted that this writ application was
admitted for final hearing way back in the month of



January-1995, with an interim order restraining the respondents from taking any action so as to demolish the house or evict the petitioners from it and to that extent it would be relevant to quote the operative portion of the impugned order:-

“In the meantime, the Respondents are directed not to take any action so as to demolish the house or evict the petitioners from it, popularly called “Yusuf Building” located at the Dak Bunglow Road crossing at the south east junction standing over Plot no. 13 of Frazer Road and Dak Bunglow road.”

Thereafter, this writ application has remained pending till today but the respondents have not filed any counter affidavit. Thus, whatever has been asserted by the petitioners in support of their claim that Yusuf Building at Frazer Road was constructed on the basis of sanction plan under the order of the then Chairman of Patna Municipality who was nonetheless late Dr. Rajendra Prasad, the first President of India, this Court would find it difficult to take any contrary view specially when respondents have not brought any material on record to deny the claim of the petitioners.



Nonetheless, the petitioners also had filed this writ application on mere apprehension, inasmuch as, there is nothing on record to show that the order for demolition was passed by the authorities of P.R.D.A. P.R.D.A is no longer in existence and after its dissolution, it is the Patna Municipal Corporation which is looking after the affairs of P.R.D.A. Unfortunately, Patna Municipal Corporation has not been made party to this writ application and therefore, nothing can be said as with regard to the continuing cause of action keeping in view the earlier interim order passed by this Court.

In the given circumstances, this Court would deem it expedient in the ends of justice to dispose of this writ application with a liberty to the Patna Municipal Corporation to take any appropriate action against Yusuf Building but only after considering its defence and for that purpose Yusuf Building will have to be given notice and/or also opportunity of hearing before any adverse order/decision for demolition of the Yusuf Building is

taken by the Patna Municipal Corporation. It goes without saying that any order that may be passed by the competent authority must follow the requirement of law.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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