

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2068 of 2014

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1. Uday Shankar Singh S/O Late Mahendra Singh R/O Juran Chapra, Road
No.- 5, Ward No. 3, P.S.- Brahampura, Dist.- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Urban Development
Department, Government of Bihar, Patna

2. The Principal Secretary, Urban Development Department, Government
Of Bihar, Patna

3. The Muzaffarpur Municipal Corporation through the Commissioner,
Muzaffarpur

4. The Executive Officer, Nagar Nigam, Muzaffarpur

5. The Officer in Charge, Brahampura Police Station, Muzaffarpur

6. Uma Shankar Singh S/O Late Mahendra Singh At- Juran Chapra, Road
No. 5, Ward No. 3 (Old) 4 (New), P.O.- M.I.T., Muzaffarpur, P.S.-
Brahampura, Dist.- Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Adv.

For the Respondent/s : Mr. M.K. Singh, SC-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 09-03-2015 Heard Mr. Krishna Kant Singh, learned counsel for the

petitioner and Mr. Nikesh Kumar appearing for the Municipal

Corporation, Muzaffarpur.

In the nature of the order which this Court proposes to
pass it would not be required to issue any notice to the private
respondents although the grievance is directed against him.

The limited issue raised by the petitioner before this
Court is that on his application a case was registered under the
provisions of the Bihar Municipal Act, 2007 giving rise to Case
No. 44 of 2013 and the Municipal Commissioner considering
the circumstances vide order passed on 19.11.2013 restrained
the private respondent No. 6 from making any constructions.

The matter was adjourned to 28.12.2013 on account of absence of the private respondent and the local police was directed to ensure stoppage of construction work.

The grievance of the petitioner is that even when the matter was posted for further hearing on 28.12.2013, on an application filed by the private respondent on 23.11.2013 that the interim order passed on 19.11.2013 was recalled by the Municipal Commissioner vide order passed on 29.11.2013 without notice or giving opportunity of hearing to the petitioner. He submits that being aggrieved by such action that the petitioner moved this Court in the present writ petition and during the pendency, the private respondent has succeeded in completing the construction work even when it is in violation of the Municipal Act, Rules and the Bye laws framed thereunder.

As I have observed hereinbefore though the grievance is directed against the action of the private respondent but considering the fact that the matter remains pending before the Municipal Commissioner in Case No. 44 of 2013 on the issue whether the private respondent has violated the provisions of the Act and the bye laws in making the construction of his residential house, this Court without expressing any opinion would dispose of the writ petition with the direction to the Municipal Commissioner to consider and dispose of the matter

in accordance with law and after giving an opportunity of hearing to the contesting parties i.e. the petitioner as well as the private respondent. An expeditious disposal within a period of three months from the date of receipt/production of a copy of this order would be appreciated.

It goes without saying that the constructions whatsoever made by the private respondent would abide by the final orders to be passed in the proceedings.

This Court before parting with the order would express its displeasure with the manner in which the Municipal Commissioner has recalled his order dated 19.11.2013 without giving an opportunity of hearing to the petitioner.

An authority vested with statutory powers exercising quasi judicial jurisdiction is required to follow the rules of procedure and which has to be transparent and with proper opportunity to the contesting parties, which is grossly missing in the order dated 29.11.2013 whereby the interim order dated 19.11.2013 restraining the private respondent from making constructions, was recalled. The Commissioner would be well advised to be cautious in future and abide by the principles of natural justice which mandates a hearing to all contesting parties. .

Bibhash/-

(Jyoti Saran, J)

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