

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3006 of 2014**

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1. Lalit Kumar Kataruka Son of Late Kashi Prasad Kataruka Resident of 4,  
Riding Road, Sheikhpura, P.S. Shastri Nagar, Town and District Patna

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. The Principal Secretary, Urban Development Department, Government  
of Bihar, Patna  
3. Patna Municipal Corporation, Maurya Lok Complex, Patna, through its  
Municipal Commissioner  
4. The Commissioner-Cum-Chief Executive Officer, Patna Municipal  
Corporation, Maurya Lok Complex, Patna  
5. The Executive Officer, New Capital Circle, Patna Municipal Corporation,  
Patna  
6. The Officer-In-Charge, Airport Police Station, Patna

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Suraj Samdarshi, Adv.

For the State : Mr. Deepak Sahay Jamuar, A.C. to A.A.G. 6

For the Respondent-PMC: Mr. Sanjay Prakash Verma, Adv.

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**ORAL ORDER**

5      04-05-2015      The petitioner came before this Court complaining against the notice issued by the Executive Officer, New Capital Circle, Patna Municipal Corporation bearing No. 1893 dated 25.9.2013 whereby directions were issued to the Officer Incharge, Airport Police Station to stop the construction work carried on in the land of the petitioner by the developer under a development agreement.

Facts are not in dispute and the petitioner owned the land bearing Municipal Survey Plot Nos.1780,1783, 1784 and 1785 admeasuring 16.5 decimals as well as Plot No. 1772 and 1773 admeasuring 16 decimals, the total area coming to 32.5 decimals.

The petitioner entered into a development agreement for construction of a building and after obtaining the necessary

permission from the statutory authorities, a map was presented before the Municipal Commissioner for his sanction for construction of a residential-cum-community complex vide Plan Case No.FF/ABPIPROP/RES B+G+6/PAT-431/3482.

The grievance of the petitioner is that even when the constructions were made is proceeding as per the sanctioned map that a notice was issued to the petitioner and the developer on 15.6.2013 requiring them to submit documents vide Annexure-5 and in response whereto the petitioner submitted the required documents before the Executive Officer, New Capital Circle on 28.6.2013 vide Annexure-6. He submits that the Executive Officer by simply rejecting the documents as being incomplete has directed the Station House Officer, Airport Police Station vide the impugned letter dated 25.9.2013 to stop the on going constructions. It is submitted that the petitioner represented before the Executive Officer seeking permission to resume the work while again depositing the photocopies of the required documents but to no avail and hence this writ petition.

The matter was heard and when the respondents were directed to file their counter affidavit. Whereas the State has simply relied upon directive of the Corporation to stop the construction work, a counter affidavit has been filed by the Municipal Corporation in which firstly, they tried to question the locus of the petitioner to raise the issue even when he happens to

be the landlord and the notice was also directed against him and secondly, the Town Commissioner vide the order passed on 14.3.2014 issued an order of restraint on a completely different issue regarding proposed usage of the building.

Mr. Samdarshi, learned counsel for the petitioner has submitted that the shifting stand of the respondents is evident of the fact that the petitioner has been subjected to unnecessary harassment. Whereas initially the petitioner was only required to deposit some documents and which has since been deposited vide Annexures-6 and 8 before the Executive Officer, New Capital Circle, now the Town Commissioner is singing a different tune to stop the constructions on the proposed usage of the building, even when the map plan has been applied for a residential cum community complex.

According to Mr. Samdarshi where there is nothing on record to show any violation and even when the constructions are yet to be completed, the stay of the constructions is on non est grounds especially where no alleged deviations has been complained of. He submits that almost two years has passed since the stoppage order causing heavy loss to the petitioner.

Mr. Verma learned counsel for the Corporation has relied upon the counter affidavit filed on behalf of the Corporation to justify their action.

I have heard learned counsel for the parties and perused the

records.

Although prima-facie this Court does not find sufficient reason for the Town Commissioner to stay the construction work especially where no deviation in the constructions are reported but since the matter is pending before the Town Commissioner who vide order passed on 14.3.2014 has initiated vigilance proceedings, this Court would refrain from expressing any opinion at the present stage. However, considering the fact that the construction work at the premises of the petitioner is completely stopped since more than 1 and ½ years, the status quo position cannot be allowed to continue endlessly. The Municipal Commissioner is directed to dispose of the proceeding so initiated against the petitioner and his developer in accordance with law and after giving opportunity of hearing to the petitioner/developer or through their authorized representative within four weeks from the date of receipt/production of a copy of this order.

It goes without saying that the petitioner would cooperate with the disposal of the Vigilance Case, for any delay would be detrimental affect to his own interest.

This writ petition is disposed of accordingly.

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**(Jyoti Saran, J)**