

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8152 of 2013

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Narendra Mishra, S/O Late Shiv Shankar Mishra, Resident of Mohalla - East Anandpuri, P.S. S.K. Puri, Distt. – Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Secretary, Urban Development Department, Government of Bihar, New Secretariat, Bailey Road, Patna.
2. The Chief Administrator, Patna Municipal Corporation, Maurya Lok Complex, Ps. - Kotwali, Distt. – Patna.
3. The Deputy Administrator, Patna Municipal Corporation, Maurya Lok Complex, Ps. - Kotwali, Distt. – Patna.
4. The Executive Officer, Patna Municipal Corporation, New Capital Circle, Patna
5. The District Magistrate, Patna.
6. The Sub - Divisional Officer, Patna Sadar, Distt. Patna.
7. The Circle Officer, Sadar Circle, Patna.
8. Sri Shailendra Singh (Builder), Maa Sharda Complex 1st Floor East Boring Canal Road, Patna
9. Sri Parichhan Singh, S/O Late Sri Ramjee Singh Resident Of Mohalla - Anandpuri, Ps. Sri Krishnapuri, Distt.- Patna
10. The Registrar Co-operative Society, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vitesh Kumar Singh, Advocate
For the Respondent/s : Mr. Roy Shivaji Nath, A.A.G.-3
Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 23-06-2015

The hours, if not days, that have been spent in this writ petition by the High Court could have been utilized in disposal of thousand of matters which are pending for decades together. It became a luxury of one citizen, who thought of taking the institution for a ride. The extent to which the case has kept the Court busy can easily be gazed from the fact that the orders that have been passed so



far run into about 200 pages and it was heard as many as on 63 occasions. The most unfortunate part of the matter is that the learned counsel for the petitioner by name Sri Vitesh Kumar Singh has the courtesy to inform the Court that he is not ready to argue the matter today. This, at a time, when the first appeals that were filed way back in the year 1970, and the criminal appeals filed in the year 1992, are waiting their turn for hearing. Every effort made by us to convince the learned counsel to proceed with the matter did not fructify and left with no alternative, we have gone through the record and propose to deal with the matter, lest it consumes further time and energy of the Court.

The petitioner came across the construction of a building on the land in Khata No.83, Khesra No.1151, Thana No.4, situated in Ward No.34, Circle No.246, East Boring Canal Road, of Patna Municipal Corporation. Feeling that the building cannot be constructed at that place, having regard to the details of master plan and other aspects, he submitted a representation dated 30th January, 2013 (Annexure-3) to the Commissioner, Patna Regional Development Authority, Patna. The said organization is said to have been merged with the Patna Municipal Corporation. To a query made by him, the concerned authority gave an answer to the effect that the land is part of a master plan, wherein a road of 60 ft. wide is

provided and that in case, adequate set back is furnished, the building can be constructed there.

Not satisfied with that, the petitioner initiated this public interest litigation, with a prayer to call for a report from the authorities of the Patna Municipal Corporation, as to why they are allowing the private individuals i.e. respondents 8 and 9 to make illegal constructions of multi storied building, in the land referred to above, in spite of his repeated representations.

This Court took up the matter and called for a report from the Patna Municipal Corporation. The report of the Corporation was widened to cover various structures also. It has generated heat and light, as is evident from the orders that were passed from time to time. The record discloses that the portion of the building which the petitioner has been objecting to has been demolished by the Patna Municipal Corporation.

Though the demolition of the building, albeit in part, should have brought an end to the litigation, it has assumed the proportions, which are not even remotely connected with the original issue. For example, the transfer of the Commissioner, Patna Municipal Corporation became one of the hottest subjects of the writ petition; so much so that orders, which were at conflict with each other, came to be passed by separate Division Benches and for

resolving that, a Full Bench had to be constituted. The actual issue lost its identity, and the subject matter of the present writ petition virtually became a device for settling the scores between different sets of persons. We feel that enough has happened, and it is not in the interest of the institution to continue the present litigation any further.

It hardly needs any mention that the Municipal Corporation is not only vested with the power, but also is endowed with the duty, to ensure that the constructions do not take place, contrary to the bye laws framed by it. We reiterate the same and observe that the same amounts of vigilance, as was exhibited, vis-à-vis the building in question, shall be continued in respect of all other structures, which have already come up or may come up, in the limits of the Patna Municipal Corporation.

We, accordingly, close the writ petition, taking note of the fact that the building, which the writ petitioner was complaining of, has been substantially demolished.

Before parting with the case, we express our displeasure about the manner in which the learned counsel for the petitioner has acted, in refusing to arguing the case, without any excuse, whatever.

It is brought to our notice that some records of the Municipal Corporation have been summoned by this Court, in the

course of the hearing of the writ petition. The Registry is directed to return all the records on their acknowledgement.

Interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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