

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8355 of 1999

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1. Bhrigunath Rai.
 2. Ranjet Rai.
 3. Surendra Rai.
 4. Satyendra Narayan Roy, Sl. 2 to 4 are sons of Sri Bhrigunath Rai.
 5. Shashi Kumari d/o Bhrigunath Rai and wife of Sri R.N.Rai, C/o Sri Abhay Narayan Rai, R/o village and P.O. Kanuwan, District Gazipur (UP).
 6. Bina Kumari d/o Sri Bhrigunath Rai and wife of Sri Tarkeshwar Rai, R/o village Khajurea P.O. Karamnasa District Kaimur.

.... Petitioner/s

Versus

- 1.P.R.D.A.,Patna.
2. The Appellate Tribunal, PRDA, through its Chairman, Maurya Lok, Patna.
3. Srimati Kaushlya Devi wife of Girija Nand Sharma, Resident of Mohalla Punaichak Shankar Path, P.S. Shastri Nagar Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : None.

For the Respondent/s : Mr. Sanjay Prakash Verma, Adv.
PRDA/PMC.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-03-2015

No one appears on behalf of petitioner. Heard the counsel for the PRDA.

With the assistance of counsel for the PRDA, this Court is disposing of the matter on the basis of materials available on the record.

During the pendency of this petition, the original petitioner died and in her place heirs have been substituted.

In this case, the original petitioner (for convenience, 'petitioner') is seeking relief of quashing the order dated 30th July 1999 passed by the Appellate Tribunal, PRDA, Patna in Appeal No. 48 of 1998, arising out of vigilance Case No. 39-B of 1997 by which the appeal of the respondent has been allowed and the order passed in the vigilance case has

been set aside.

The short facts of this case is that the petitioner filed a petition dated 7th September 1996 before the Vice Chairman, PRDA for taking necessary steps with regard to illegal construction made by Sushila Devi wife of Late Suresh Chandra Sharma and Kaushlya Devi wife of Girija Nand Sharma (respondent no.3) over plot no. 645 under Khata No. 239 situated at Mohalla Punaichak, P.S. Shastri Nagar, Patna against the sanctioned map violating provisions of Building By-laws.

The enquiry report submitted on 6th January 1998 along with the map of the house clearly pointed out that the construction of the building standing on plot no.645 under Khata No. 234 was in utter violation of the Building Bye-laws. On receipt of the same, the Vice Chairman, PRDA vide order dated 5th June 1998 directed the concerned authority to mark certain portion of the building in terms of Section 54(i) of the Patna Regional Development Act to remove the encroachment within 30 days , failing which the same will be removed.

The Respondent no.3 not being satisfied that the action of the Vice Chairman moved before the Appellate Authority, PRDA which was registered as Case No. 48 of 1998. The Appellate Tribunal held that it is basically a private dispute in between the two parties and the Vice Chairman does not have jurisdiction to pass such order, that can be decided in different forum.

The Respondent no.3, in the counter affidavit, has stated that she filed Title Suit No 24 of 1995 which is pending before the Civil Court. If there is a dispute between the two parties with regard to their title and possession, that cannot be settled by the authority under the PRDA nor

the authority under the Municipality Act, that can be settled by the civil court of competent jurisdiction.

As already a title suit is pending, outcome of the same would govern the right, title between the parties.

With the above observation/direction, this petition is disposed of.

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(Shivaji Pandey, J)