

# IN THE HIGH COURT OF JUDICATURE AT PATNA

## Civil Writ Jurisdiction Case No.6193 of 1998

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1. Indu Gupta.
  2. Manjula Gupta
  3. Awadesh Kumar

All residents of Flat No. 401, 402, 4<sup>th</sup> Floor (South-East) of Mahendra Lok, Lohia Nagar, P.S.- Kankarbagh, District-Patna.

.... .... Petitioner/s

Versus

1. The Patna Reg.Devp.Authority.
2. The Vice- Chairman, Ptna Regional Development Authority, Mauryalok Complex, Dakbunglow Road, Patna
3. Prabhat Kumar Singh, son of Sri Mahendra Singh, Managing Director, M/S Mahendra Construction and Mahendra Developers, Lohia Nagar, P.S.-Kankarbagh, District- Patna.
4. Mithilesh Prasad, son of Sri Hari Govind Ras,, resident of village and Post office Sher.
5. Sunil Kumar, son of Mr. Kedar Nath Prasad, resient of village, P.O. & p.s. Barahiya, District- Munger.
6. Bihar State Housing Board through its Manging Director.

.... .... Respondent/s

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### Appearance :

For the Petitioner/s : Mr. Shola Sandhwar  
Mr. Rajiv Nayan Singh  
Mr. Asit Kumar Jha  
Mr. Krishna Mohan  
Mr. Diwakar Upadhyay

For the Respondent/s : Mr. Rajendra Pd Singh  
Mr. Nilu Agrawal  
Mr. H.S.Himkar

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**

12 18-02-2015

In this case, the petitioners has sought following

reliefs:-

- “(i) Respondent No. 1 and 2 be directed to consider the Building Plan Case No. 870/95 and the constructions raised thereon in accordance with the Building Bye laws.
- (ii) Respondents be directed not to undertake demolition on the basis of the order dated 29.05.1998, passed by the Respondent No. 2 i.e. the Vice-Chairman, Patna regional Development authority ( hereinafter referred to as the “:

Authority”), in Vigilance case No. 33A of 1995 as contained in Annexure-3 of the instant writ application.

- (iii) The Hon’ble Court may be pleased to hold that the order dated 29.05.1998 as contained in Annexure-3 of the instant writ application having not been passed against the petitioners in strict compliance of the provisions made under Section 54(i) of the Act, against which admittedly an Appeal vide Appeal No. 47/98 (under section 54 (2) of the Act) preferred on behalf of the respondent No. 3 to 5 is still pending, the provisions made under Section 54 (3) of the Act, i.e. “ The decision of the Tribunal on the appeal and subject only to such decision, the order under Sub Section (1) ( shall be final, and conclusive “ , comes into play and as such, in any view of the matter, the same can not be given effect to so far the petitioners are concerned.
- (iv) Any other relief/reliefs for which the petitioners are found entitled to.”

From the pleadings of the application it appears against the order of demolition, the petitioners had filed Appeal before the Appellate Tribunal. There was no notification for constituting the Appellate Tribunal by Judicial member of the District Judge rank which compelled the petitioner to move this case. As it is a old matter the appeal that was pending before the Appellate Tribunal must have been disposed of.

No one appears from the side of the petitioners and the State, learned counsel on behalf of Municipal Corporation is present to assist in the present case.

In such view of the matter, there is no need to proceed with this case. If the Appellate Tribunal has not disposed of the matter till date, it is directed to dispose of the same without unnecessary

delay.

With this observation, this petition is accordingly,  
disposed of.

(Shivaji Pandey, J)

Sudha/-

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