

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.76 of 2014

=====

Ratna Kumar Singh son of Sri Parmatma Nand Singh, resident of Deosthali Apartment, North Sk Puri, Ps Sri Krishnapuri, Town And District Patna

.... Petitioner/s

Versus

1. The Patna Municipal Corporation, Patna
2. The Municipal Commissioner, Patna Municipal Corporation, Patna
3. The Inspector of Police, Sri Krishnapuri Police Station, Patna

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Rajeeva Roy, Advocate
For the State : Mr. Dhananjay Kumar, A.C. to G.P. 16
For the P.M.C. : Mr. Sanjay Prakash Verma, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 31-03-2015 Heard Mr. Rajeeva Roy, learned counsel for the petitioner, Mr. Dhananjay Kumar, Assisting Counsel to G.P. 16 for the State and Mr. Sanjay Prakash Verma for the Patna Municipal Corporation.

The petitioner has prayed for quashing a notice dated 4.4.2012 issued by the Inspector of Police, Sri Krishnapuri Police Station, Patna whereby he has directed the petitioner to stop on going construction at “Block-A” of Deosthali Apartment situated at North Sri Krishnapuri in the town and district of Patna.

Mr. Rajeeva Roy, learned counsel appearing on behalf of the petitioner has contested the jurisdiction of the policing authority to issue such restraint order as being in the teeth of the



pronouncement of this Court in M/s Asterisk Home Private Limited vs. The State of Bihar & Ors. reported in **2014 (1) PLJR 197**. He submits that even when the matter is pending consideration before the Municipal Commissioner in Vigilance Case No. 71B of 2006 and in which proceeding the petitioner has already filed a revised map, yet the notice has been issued by the Inspector of Police of Sri Krishnapuri Police Station without any jurisdiction.

A counter affidavit has been filed on behalf of the State House Officer, Sri Krishnapuri Police Station relying upon a direction issued by the Vigilance Officer of the Patna Municipal Corporation contained in his letter dated 24.4.2012 requiring the concerned Police Officer to ensure the stoppage of work, a copy of which letter is placed at Annexure-A to the counter affidavit filed on behalf of the Station House Officer. A counter affidavit has also been filed by the Patna Municipal Corporation and in which it is alleged that the petitioner is deviating from the original map to carry on constructions.

Mr. Verma, learned counsel appearing on behalf of the Corporation while making such submission admits that the matter is yet pending consideration before the Municipal Commissioner. Mr. Verma also could not place any order of the Municipal

Commissioner in the proceedings arising from Vigilance Case No. 71B of 2006 issuing any such direction of stoppage of work.

I have heard learned counsel for the parties and I have perused the materials on record. In absence of there being any direction by the Municipal Commissioner in Vigilance Case No. 71B of 2006 the letter issued by the Vigilance Officer contained in Annexure-A to the counter affidavit, is patently illegal and an exercise beyond jurisdiction and is covered by the decision rendered by this Court in the case of M/s Asterisk Home Private Limited (supra).

For the reasons aforementioned, the order of the Vigilance Officer dated 24.2.2012 as contained in Annexure-A as well as the notice of the Sub-Inspector, Sri Krishnapuri Police Station, Patna placed at Annexure-1 cannot be upheld and are accordingly set aside.

The writ petition is allowed.

(Jyoti Saran, J)

S.Sb/-

U			
---	--	--	--