

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7643 of 2009

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Sayed Imam Ahmad, S/o Late Wasi Ahmad, resident of Mohalla-Samanpura, Rajabazar, P.S. Shastrinagar, District-Patna.

.... Petitioner.

Versus

1. The State of Bihar through Its Secretary, Department Of Urban Development, Govt. Of Bihar, Patna
2. Patna Municipal Corporation, Budh Marg, Patna through the Municipal Commissioner.
3. The Municipal Commissioner, Patna Municipal Corporation, Budh Marg, Patna
4. Additional Municipal Commissioner, Patna Municipal Corporation, Budh Marg, Patna
5. Executive Engineer, Division-C, Patna Municipal Corporation, At Maurya Lok Complex, Patna
6. Sri Vijay Prakash Sinha Sri Yogendra Singh Nand Gaon (Sherullahpur), P.S. Shastri Nagar, Distt. Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No.9068 of 2011

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1. Vijay Prakash Sinha Sri Yogendra Singh Nand Gaon (Sherullahpur), P.S. Shastri Nagar, Distt. Patna
 2. Satyendra Prakash Sinha Sri Yogendra Singh Nand Gaon (Sherullahpur), P.S. Shastri Nagar, Distt. Patna
 3. Om Prakash Sinha Sri Yogendra Singh Nand Gaon (Sherullahpur), P.S. Shastri Nagar, Distt. Patna

.... Petitioners.

Versus

1. The State of Bihar through Its Secretary, Department of Urban Development, Govt. of Bihar, Patna
2. Patna Municipal Corporation, Budh Marg, Patna through the Municipal Commissioner
3. The Municipal Commissioner, Patna Municipal Corporation, Budh Marg, Patna
4. Additional Municipal Commissioner, Patna Municipal Corporation, Budh Marg, Patna
5. Executive Engineer, Division-C, Patna Municipal Corporation, At Maurya Lok Complex, Patna
6. Syed Imam Ahmad Lt. Wasi Ahmad Samanpura, Rajabazar, P.S. Shastrinagar, Distt. Patna

.... Respondents.

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Appearance :

(In CWJC No.7643 of 2009)

For the Petitioner/s : Mr. Raju Giri
Mr. Vikas Ratan Bharti

For the Respondent/s : Mr. (Aag7)
Mr. Bishwa Bibhuti Kr.Singh

(In CWJC No.9068 of 2011)

For the Petitioner/s : Mr. Ujjawal Kumar

For the Respondent/s : Mr. Rajeev Kr. Singh Gp15

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

26 12-03-2015

Both the above-said writ petitions were heard together and accordingly, common order is being passed in both the above-said writ petitions.

2. CWJC No. 7643 of 2009 has been filed by the petitioner Syed Imam Ahmed for quashing the order dated 16-06-2009 (Annexure-3) passed by the Municipal Commissioner, Municipal Corporation, Patna (respondent No. 3) by which, he affirmed the recommendation of Additional Municipal Commissioner, Municipal Corporation, Patna (respondent No. 4) for cancellation of map, granted to the petitioner in Plan Case No. 149 of 2009 and, furthermore, the petitioner has also prayed for quashing letter No. 13 dated 25-06-2009 issued by the Executive Engineer, Municipal Corporation, Patna by which, the petitioner was informed that the sanction of his map in the aforesaid case stands cancelled and he was directed to stop the construction work immediately.



3. The above said CWJC No. 7643 of 2009 was filed on 17-07-2009 and vide order dated 26-08-2010, the aforesaid writ petition was allowed but the order dated 26-08-2010 was challenged before the Division Bench in LPA Nos. 317 of 2011 & 890 of 2011 and the Division Bench found the order dated 26-08-2010 to be not sustainable and the matter was returned to this court vide order dated 21-01-2013 for fresh consideration and disposal on merits, after hearing the parties.

4. In brief, the case of the petitioner in CWJC No. 7643 of 2009 is that his son namely, Md. Tanbir Ali Imam purchased part of cadestral survey plot No. 492 through registered sale deed dated 24-11-2004 from Sri Chandra Kant Singh, Sri Ram Babu Singh and Sri Ambika Singh. After purchase, his name was mutated vide order dated 11-12-2004 passed in Mutation Case No. 584/03/04-05 and accordingly, petitioner's son started paying rent to the State of Bihar regularly. Subsequently, the son of the petitioner executed the power of attorney in favour of the petitioner to develop the aforesaid land and accordingly, the petitioner got prepared a map by competent and duly authorized architect and submitted the same to the Patna Municipal Corporation,



Patna on 07-02-2009 along with the necessary information, as required under Clause-5 of the Modified Building Bye Laws. The Patna Municipal Corporation, Patna having found the map and application along with its enclosure in accordance with law, sanctioned the map vide Plan Case No. 149 of 2009 and the same was communicated to the petitioner vide letter No. 262 dated 30-03-2009. After sanction of the map, the petitioner started construction work on the above-said land, in terms of the sanction map but all of a sudden, on 28-06-2009, local police came along with letter No. 131 dated 25-06-2009 and asked the petitioner to stop the construction work. Having got the aforesaid letter, the petitioner came to know that his sanctioned map was cancelled u/S 37 of Bihar Regional Development Authority Act, 1981 by the authorities, without giving the opportunity of hearing to him.

5. The further case of the above-said petitioner in CWJC No. 7643 of 2009 is that the lands, in question, originally belonged to Most. Uma Devi, wife of Late Rajendra Singh and Most. Prabhabati Devi wife of Late Chandeshwar Singh. Both the above-said ladies got the lands, in question, by way of family partition and later on, they transferred the



land, in question, to Chandrakant Singh, Sri Ram Babu Singh, Sri Ambika Singh and Sri Kunwar Singh through registered sale deed dated 17-08-1990 and the aforesaid persons got mutated their names in revenue records. Subsequently, except Sri Kunwar Singh, all the above-said persons transferred the lands, in question, in favour of petitioner's son through registered sale deed as stated above.

6. Petitioners in CWJC No. 9068 of 2011, too challenged the order dated 16-06-2009/17-06-2009 passed by the Municipal Commissioner, Municipal Corporation, Patna by which, he affirmed the recommendation of Additional Municipal Commissioner, Municipal Corporation, Patna (respondent No. 4) for cancellation of map sanctioned vide Plan Case No. PRN-5-394 of 2007 and also for quashing the letter No. 131 & order dated 25-06-2009 by which, they were informed that map, sanctioned in their favour for construction of apartment vide above-said Plan Case No. PRN-5-394 of 2007, has been cancelled and also for stoppage of construction work, immediately.

7. In brief, the case of the petitioners in CWJC No. 9068 of 2011 is that Plot Nos. 492 & 494, appertaining to



Khata No. 277 of Mauja Samanpura was their ancestral property and father of the petitioners namely, Yogendra Singh got the aforesaid plots through partition with his brother, Rajendra Singh but in Title Partition Suit No. 309 of 1981, Anil Prakash Sinha, who happened to be full brother of petitioners got the aforesaid plots through compromised decree and thereafter, the said Anil Prakash Sinha and petitioners got mutated their names in revenue records vide Mutation Case No. 406 of 1981-82 in respect of the above-said plots and others. Unfortunately, the aforesaid Anil Prakash Sinha died unmarried and after that, the petitioners being full brothers of aforesaid Anil Prakash Sinha, inherited the aforesaid land and got mutated their names vide order dated 24-09-2003 in Mutation Case No. 340/03/03-04. Subsequently, petitioners entered into a development agreement with M/S Satya Sain Awas Ltd. Patna on 12-11-2007 for development of the lands, in question, and submitted the map for approval before Patna Municipal Corporation. The map of the petitioners was sanctioned vide Case No. PRN-05-394 of 2007 on 06-12-2007. After sanction of the map, the developer of the petitioners started construction work but the petitioner in CWJC No. 7643 of



2009 raised objection and informed that the lands, in question, had been purchased by his son from Chandrakant Singh, Rambabu Singh and Ambika Singh on 24-11-2014 and, thereafter, a proceeding u/S 144 of the Cr. P.C. was initiated but subsequently, learned Executive Officer dropped the aforesaid proceeding, directing the parties to seek remedy before the competent court. After dropping of the proceeding u/S 144 of the Cr. P.C., the petitioners filed Title Suit No. 443 of 2008 before learned Sub Judge-Ist, Patna on 25-11-2008 for declaration of their right, title and possession in respect of the suit land. In the aforesaid Title Suit No. 443 of 2008, the son of the petitioner in CWJC No. 7643 of 2009 was made defendant. The son of the petitioner in CWJC No. 7643 of 2009 filed his written statement in the above-said Title Suit No. 443 of 2008 on 18-03-2009 through the petitioner in CWJC No. 7643 of 2009 but after institution of the above-said Title Suit No. 443 of 2008, the petitioner in CWJC No. 7643 of 2009 got sanctioned map in respect of suit land vide Plan Case No. PRN-149/09 by playing fraud and misrepresentation, particularly, suppressing the fact of pendency of Title Suit No. 443 of 2008. The fact of sanction of map vide Plan Case No. PRN-149/09 came to the notice



of the petitioner No. 3 in CWJC No. 9068 of 2011 and then, he brought the aforesaid fact to the notice of authorities of Patna Municipal Corporation, Patna and thereafter, cancellation proceeding was initiated and vide impugned order, not only the sanctioned map of the petitioner in CWJC No. 7643 of 2009 but the sanctioned map of the petitioners in CWJC No. 9068 of 2011 was also cancelled and both the parties were restrained from making any construction over the lands, in question.

8. It is also the case of the petitioners in CWJC No. 9068 of 2011 that one Bulkan Singh and his nephew, Dhanushdhari Singh were recorded land holder of plot Nos. 492 & 494 measuring 1.49 acres along with other lands. The above-said Bulkan Singh died issueless and, thereafter, Dhanushdhari Singh, being nephew of deceased, Bulkan Singh became absolute owner of the lands, in question as well as other lands. The aforesaid Dhanushdhari Singh died leaving behind his three sons, namely; Ramadhin Singh, Narsing Singh and Umanand Singh. Subsequently, Narsing Singh died leaving behind his two sons, namely, Rajendra Singh and Yogendra Singh. After death of Narsing Singh, family partition took place and the land, in question, and

some other lands fell in the share of Rajendra Singh and Yogenra Singh and accordingly, their names were mutated in the revenue records. Rajendra Singh died leaving behind her wife Uma Devi and his son, Chandreshwar Singh, who subsequently, died leaving behind his wife, Prabhabati Devi. Uma Devi and Prabhabati Devi sold 5- 2/3 decimal of land of plot Nos. 492 & 494 to one, Lakhan Sah as well as Sushila Devi, Geeta Devi and Jayanti Devi through two separate registered sale deeds. It is further case of the petitioners that in mutual partition, 44 decimals of land of plot Nos. 492 & 494 was allotted to the share of Yogendra Singh whereas; only 5- 2/3 decimals of land of plot Nos. 492 & 494 was allotted to the share of Rajendra Singh. It is further case of the petitioners that Uma Devi and Prabhabati Devi had already transferred their lands of plot Nos. 492 & 494 to Lakhan Sah and others and, therefore, both the aforesaid ladies had got no right to transfer the remaining part of lands of plot Nos. 492 & 494 to vendors of son of the petitioner in CWJC No. 7643 of 2009 and, therefore, the vendors of son of the petitioner in CWJC No. 7643 of 2009 had also got no right to transfer the land of remaining part of plot No. 492 and, therefore, the son of the petitioner in CWJC No. 7643 of 2009



did not accrue any right and title in respect of lands, in question. Further case of the petitioners in CWJC No. 9068 of 2011 is that when the map in respect of lands, in question, had already been sanctioned in the year, 2007 in favour of petitioners, the Municipal Authorities had got no right to again sanction the map in respect of same lands, in the year 2009 and, therefore, when the concerned authorities came to know about the above-said anomaly, the concerned authorities rightly cancelled the map sanctioned in favour of the petitioner in CWJC No. 7643 of 2009 but the concerned authorities committed error in cancelling the map, sanctioned in favour of the petitioners in CWJC No. 9068 of 2011.

9. Learned Senior Counsel Sri Y. V. Giri, appearing in CWJC No. 7643 of 2009 submits that Section 37(2) of the Bihar Regional Development Authority Act, 1981 makes provision for refusal of sanction of plan and under the aforesaid provision, Municipal Authority has got no right to cancel the plan, which had already been sanctioned. Moreover, Section-38 of the above-said Act gives jurisdiction to Vice Chairman to cancel the sanctioned map, if, he is satisfied that such sanction was accorded in consequence of any material misrepresentation or fraudulent statement



contained in the notice, given or information furnished under Section-37 of the aforesaid Act. However, the proviso of aforesaid Section-38 makes mandatory to give reasonable opportunity to the affected person before making any order under Section-38 of the Act. It is further contended by him that admittedly, in the present case, no opportunity of hearing was given to the petitioner in CWJC No. 7643 of 2009 before cancellation of sanctioned map and, therefore, the impugned order cannot sustain in the eye of law. It is further contended by him that the petitioner in CWJC No. 7643 of 2009 neither made any misrepresentation nor suppressed any material information in his application. He further submitted that the impugned order was passed on the ground that the petitioner in CWJC No. 7643 of 2009 suppressed the fact about the pendency of Title Suit No. 443 of 2008 but admittedly, the aforesaid Title Suit No. 443 of 2008 was filed on 25-11-2008 whereas; notice in the aforesaid suit was issued on 25-02-2009 and it is also an admitted position that the proceeding u/S 144 of the Cr.P.C. had already been dropped on 26-03-2008. He further submitted that the petitioner in CWJC No. 7643 of 2009 submitted his application under paragraph-4.2 of Modified Building Bye Laws on 07-02-2009 i.e. much prior



to issuance of notice in Title Suit No. 443 of 2008 and the order of sanction of map was communicated to the petitioner in CWJC No. 7643 of 2009 on 30-03-2009 and, therefore, there was no occasion for the petitioner in CWJC No. 7643 of 2009 to disclose the pendency of Title Suit No. 443 of 2008 as he was not aware about the institution and pendency of the aforesaid Title Suit No. 443 of 2008. He further submitted that moreover, it was not mandatory to disclose about the pendency of any litigation as per Modified Building by rules because paragraph-4.2 of Modified Building Bye Laws says that the application for sanction of map should be in the prescribed form (Appendixes A & B) accompanied by plans and statements as required under bye laws No. 5.2 and admittedly, the petitioner in CWJC No. 7643 of 2009 completed all the formalities, as required by the rules of Modified Building Bye Laws because at the time of submission of his application, he was not aware of this fact that his title in respect of the land, in question, has been challenged before the competent court and the petitioner in CWJC No. 7643 of 2009 was only required to file his ownership of title. He further submitted that although Bihar Regional Development Authority Act, 1981 was repealed by

Section-488 of Bihar Municipal Act, 2007 but sub Clause 4(b) of Section-488 of Bihar Municipal Act, 2007 saves the validity of Modified Building Bye Laws till its supersession, modification or alteration under the Bihar Municipal Act, 2007. He further submits that at the time of passing the impugned order, Modified Building Bye Laws had not been superseded, modified or altered under the Bihar Municipal Act, 2007 and, therefore, at the time of passing the impugned order, the above-said Modified Building Bye Laws were applicable. It is contended by him that Appendixes-A & B do not contain any column to show the pendency of litigation. So, even if, the petitioner in CWJC No. 7643 of 2009 did not disclose the pendency of Title Suit No. 443 of 2008, then also, the Municipal Authorities had got no jurisdiction to cancel the sanction order passed earlier in favour of the petitioner in CWJC No. 7643 of 2009 and non-disclosure of pendency of Title Suit No. 443 of 2008 does not come either under the misrepresentation or fraudulent act. It is further contended by him that paragraph-11.1 of Modified Building Bye Laws is similar to Section-38 of Bihar Regional Development Authority Act, 1981 and as per the aforesaid paragraph of Modified Building Bye Laws also,

misrepresentation or fraudulent statement, are only grounds for cancellation of sanctioned plan but in the present case, there was neither any misrepresentation nor any fraudulent statement and, therefore, the concerned authority committed error in cancelling the sanctioned map of the petitioner in CWJC No. 7643 of 2009.

10. On the contrary, learned Senior counsel, Mr. Yugal Kishore Prasad appearing for respondents No. 6 to 8 as well as the petitioner in CWJC No. 9068 of 2011 refuted the above-said submission of learned counsel, Sri Giri and submitted that the vendors of son of the petitioner in CWJC No. 7643 of 2009 had got no right and title to transfer the lands, in question, to the son of the petitioner in CWJC No. 7643 of 2009 because they did not acquire any valid right and title in respect of suit lands, as according to the case of the petitioner in CWJC No. 7643 of 2009, their vendors had purchased the lands, in question from Uma Devi and Prabhabati Devi, who had no right and title to transfer the said lands. Learned counsel further submitted that it was incumbent duty of the concerned authorities to verify the title of the applicant before approval of map but the concerned authorities failed to do so and approved the map in favour of



the petitioner in CWJC No. 7643 of 2009, particularly, in the circumstance, when the map in respect of lands, in question, had already been approved in the year, 2007 in favour of the petitioners in CWJC No. 9068 of 2011. It is further contended by him that when the petitioners in CWJC No. 9068 of 2011 submitted application for sanction of their map, there was no litigation in respect of the suit land and the map of the aforesaid petitioners was approved much prior to approval of map of the petitioner in CWJC No. 7643 of 2009 but the concerned authorities committed error by cancelling the sanctioned map of the petitioners in CWJC No. 9068 of 2011 and, therefore, the impugned order should be quashed to the extent of cancellation of sanctioned map of the above-said petitioners.

11. Having heard the rival contentions of both the parties, I went through the record as well as relevant provisions of Bihar Regional Development Authority Act, 1981 as well as Modified Building Bye Laws. The Bihar Regional Development Authority Act, 1981 was enacted by the legislature of the State of Bihar with intent to provision for the development of various regions of the State of Bihar according to plan and for the matters ancillary thereto. The

aforesaid Act was published in Bihar Gazette on 25-01-1952. Section-35 of the above-said Act says that no person shall erect or commence to erect any building or make any addition or alteration to any building, except with the previous sanction of the Vice Chairman and in accordance with the provision of Chapter Vth and the regulations, made under the above said Act. Section-36 of the Act says that if, any person intends to carry out a development plan or any other development work etc. he shall apply for sanction by giving notice in writing of his intention to the Vice Chairman in such form and containing such information, as may be prescribed by regulations, made in this behalf. Section-37 of the Act makes provision for sanction or refusal of application for erection of a building or development or alteration thereto. Section-37 of the Act says that the Vice Chairman shall grant sanction, if, erection of the building or addition or alteration thereto would not contravene any provision of the Act or any regulation, made thereunder but if, the proposed erection or alteration would be in contravention of any provision of the Act or any regulation, made in this behalf or under any other law, sanction of the plan shall be refused. Section-38 of the Act says that if, at any time after the sanction to erection of

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any building or addition or alteration thereto, has been accorded, the Vice Chairman is satisfied that such sanction was accorded in consequence of any material misrepresentation or fraudulent statement, contained in the notice, given or information furnished under Section 37 of the Act, he may, by order in writing and for reasons, to be recorded, cancel such sanction, and erection of any building or addition or alteration thereto shall be deemed to have been done without such sanction. The proviso of the aforesaid Section-38 of the Act says that before making any such order, the Vice Chairman shall give reasonable opportunity to the person, affected to explain as to why such order should not be made. Section-43 of the Act says that the sanction, once accorded shall remain valid up to three years from the registered architect/engineer or a person, approved by Vice Chairman in the form, prescribed in the building regulation, shall be submitted and if, this is not done, the permit shall have to be revalidated before the expiry of this period on payment of such fees, as may be prescribed.

12. Admittedly, Modified Building Bye Laws was framed exercising the power, given in the Bihar Regional Development Authority Act, 1981. Paragraph-4.2 of Modified



Building Bye Laws says that if, any person intends to erect a building, shall give application in writing to the authority in the prescribed form (Appendixes A & B) and such application shall be accompanied by plans and statements in guard, as required under bye laws Nos. 5.2 & 5.3. 5.3. Furthermore, para 5.3(v) of the Bye Laws says that every application for development permit shall be accompanied by following for verifying proof of ownership - (a) attested copy of the original sale/lease deed and (b) attested copy of revenue receipt (Malguzari receipt), with Khesera, Municipal Holding tax receipt, holding No. or mutation records or affidavit or other documents, acceptable to the authority. Paragraph-7.1 of the Building Bye Laws deals with procedure of grant or refusal of permit. The aforesaid paragraph, specifically, states that before grant of sanction, the authority shall verify the title of land. Furthermore, the aforesaid paragraph also says that the authority shall verify the facts, given in the application and after that, the authority may sanction or refuse the proposals. Furthermore, Paragraph-11.1 of the aforesaid Bye Laws gives power to concerned authority to cancel the sanction, if, the concerned authority satisfies that sanction was granted in consequence of any material misrepresentation or fraudulent

statements, contained in the application, given or information furnished.

13. From bare perusal of the aforesaid provisions, it is obvious that competent authority may cancel sanction, only on two grounds, i.e. misrepresentation or fraudulent statements, made to the authority by the applicant. Therefore, it is clear from Section-38 of Bihar Regional Development Authority Act, 1981 as well as paragraph-11.1 of Building Bye Laws that the competent authority may cancel the sanction, if, it is found that the applicant made fraudulent statement in his application or information furnished or misrepresented the concerned competent authority but before passing the order of cancellation, the competent authority is duty bound to give reasonable opportunity to the person, affected to explain as to why such order should not be made.

14. Now, I advert to the facts of the present case. It is an admitted position that the petitioners in CWJC No. 9068 of 2011 applied for sanction before competent authority of Patna Municipal Corporation in respect of land of plot No. 492, Khata No. 277 and accompanied all the relevant documents, including the rent receipts and Possession



Certificate and the competent authority, having perused all the relevant documents, approved the map vide Case No. PRN-5-394 of 2007 on 06/12/2007. Furthermore, it is an admitted position that the petitioner in CWJC No. 7643 of 2009 applied for sanction on 07-02-2009 along with information, as required under Modified Building Bye Laws, accompanied by relevant documents including the copy of sale deed and revenue receipts and the competent authority, having perused the applications as well as relevant documents of the petitioner in CWJC No. 7643 of 2009, approved the map vide Plan Case No. 149 of 2009 and the order of approval was communicated to the above-said petitioner vide letter No. 262 dated 30-03-2009. It is not in dispute that the Plan Case No. 149 of 2009 was approved in respect of the same land, which was subject matter of Case No. PRN-5-394 of 2007. It is also not in dispute that the sanction was granted to petitioners in CWJC No. 9068 of 2011 in the year, 2007 whereas; sanction was granted to the petitioner in CWJC No. 7643 of 2009 in the year, 2009 and between the aforesaid period, a proceeding under Section-144 of the Cr. P.C. was initiated between them and in the said proceeding, the Executive Magistrate directed both the



parties to get their title, declared by a competent civil court and, thereafter, the petitioners in CWJC No. 9068 of 2011 filed Title Suit No. 443 of 2008 but before service of summons of the aforesaid suit, the petitioner in CWJC No. 7643 of 2009 submitted his map for sanction and the competent authority approved the map vide Plan Case No. 149 of 2009. It is also an admitted position that respondent No. 7 of CWJC No. 7643 of 2009 raised objection in respect of sanction, granted in Plan Case No. 149 of 2009 and after that, the competent authority passed the impugned order, cancelling both sanctions, granted in Plan Case No. 149 of 2009 as well as Plan Case No. PRN-5-394 of 2007 respectively, without giving any opportunity of hearing to the parties to the above-said plan cases. Therefore, it is apparent that the competent authority violated the proviso of rule 38 of Bihar Regional Development Authority Act, 1981.

15. No doubt, there is no column in Appendixes A & B Building Bye Laws to disclose the pendency of litigation nor the relevant sections of Bihar Regional Development Authority Act, 1981 casts any duty upon the applicant to disclose the pendency of litigation at the time of submission of form for approval of plan but the petitioner in CWJC No.

7643 of 2009 was aware to this fact that petitioners in CWJC No. 9068 of 2011 were seriously disputing his right and title, much prior to filing of Plan Case No. 149 of 2009. Moreover, it is an admitted position that when the sanction was granted in Plan Case No. 149 of 2009, the sanction in respect of the same land had already been granted vide Plan Case No. PRN-5-394 of 2007 in favour of petitioners in CWJC No. 9068 of 2011 and it is not the object of the Bihar Regional Development Authority Act, 1981 to approve two separate maps in favour of two separate persons in respect of the same land and, therefore, even if, there is no specific provision for cancellation of an approved map but if, it is found by the competent authority that two separate maps have been approved in favour of two separate persons in respect of the same land, the competent authority may pass appropriate order in respect of cancellation of approved maps because the approval of two separate maps in favour of two separate persons in respect of same land is completely against the object of the Bihar Regional Development Authority Act, 1981 but before passing such order of cancellation in aforesaid situation, the competent authority is duty bound to give opportunity to affected persons to explain

as to why such order should not be passed.

16. Admittedly, in the present case, while passing the impugned order, no opportunity was given by the competent authority to the affected parties and, therefore, I am of the opinion that the impugned order dated 16.06.2009/17.06.2009 passed in Plan Case No. 149 of 2009 as well as Plan Case No. PRN-5-394 of 2007 cannot sustain in the eye of law and, accordingly, the impugned order as well as the steps taken in consequent thereof are set aside and the matter is remitted back to the respondent No. 3/concerned respondent to pass afresh order after giving reasonable opportunity of hearing to the parties.

17. Accordingly, both the above-said writ petitions stand disposed off in the manner as stated above.

(Hemant Kumar Srivastava, J)

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