

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1018 of 2015

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Yogya Sheela Sinha, Wife of Late Hari Narayan Rai, resident of Village-
Raghunath Tola, Post Office - Anisabad, Police Station - Gardanibagh,
District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Urban Development Department, Government of Bihar,
Patna.
3. The Vice Chairman, Patna Regional Development Authority,
Mouryalok, Patna.
4. The Commissioner, Patna Municipal Corporation, Patna.
5. Damodar Prasad, son of Late Budhan Paswan, resident of Village-
Saichak, Post Office- Anisabad, Police Station- Phulwarisarif, District -
Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar
Mr. Bhanu Pratap Singh
For the Respondent-State : Mr. Dinbandhu Singh, GP-9
For the Municipal Corporation : Mr. Sanjay Prakash Verma
For the private Respondent no.5 : Dr. Ratan Kumar

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 08-04-2015 Heard Mr. Bhaskar Shankar, learned counsel

appearing for the petitioner, learned counsel for the State, Mr.

Sanjay Prakash Verma, learned counsel appearing for the Patna

Municipal Corporation and Dr. Ratan Kumar for respondent

no.5 who has registered appearance suo-motu.

The grievance of the petitioner is directed against the

alleged encroachment/unauthorized construction made by the

respondent no.5 which, according to the petitioner, is an

encroachment on the road and in violation of the provisions of

the Bihar Municipal Act.



It is the contention of the petitioner that earlier also a vigilance case was instituted against the private respondent arising from Vigilance Case No.88-B of 1997 and when it was found that the private respondent had violated the erstwhile provisions of the Bihar Regional Development Authority Act and the Byelaws framed thereunder. The respondent no.5 was directed to remove the illegal constructions which order of Municipal Commissioner was affirmed when the appeal preferred by the respondent no.5 bearing Appeal No.04 of 1999 was dismissed by the Appellate Tribunal. He submits that the matter after being put to rest, the private respondent has again made the same illegal constructions in violation of the provisions of the Bihar Municipal Act and the Byelaws framed thereunder and being aggrieved the petitioner has approached the Vice-Chairman of the Patna Municipal Corporation by filing representation which has not been disposed of .

Dr. Ratan Kumar, learned counsel appearing for the private respondent submits that although earlier a vigilance case indeed was initiated against him and the construction at the relevant point of time was found to be in violation of the statutory provisions and thus were removed by him but

subsequently the private respondent no.5 has presented a revised map for making fresh construction on 5.6.2003 and it is only after obtaining sanction that the constructions have been made.

These are the disputed issue of fact which has to be deliberated by the competent authority in the backdrop of the statutory provisions and since the petitioner has not approached the prescribed authority under the Bihar Municipal Act by filing a duly constituted application, a representation in such circumstances would not suffice.

In the circumstances, the writ petition is disposed of with a liberty to the petitioner to take recourse to the remedy that may be available to him under the provisions of the Bihar Municipal Act and any such application being filed by the petitioner shall be considered and disposed of by the Municipal Commissioner, Patna Municipal Commissioner in accordance with law after giving opportunity of hearing the affecting parties including the respondent no.5.

(Jyoti Saran, J)

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