

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3163 of 2012

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Kumar Ravindra Singh S/O Late Radha Prasad Singh Resident Of Mohalla-
Gardani Bagh Road No. 6/D, Chateerji Lane Sadhanapuri, P.S- Gardani
Bagh, District- Patna. Petitioner

Versus

1. The State Of Bihar
2. Pankaj Kr. Pal Commissioner Patna Municipal Corporation Patna.
.... Respondents

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Appearance :

For the Petitioner : Mr. Arun Kumar Bhagat, Advocate
For the Respondents : Mr. Anil Kr Uapdhyay, SC20

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

14 07-01-2015 The petitioner filed C.W.J.C.No. 10878 of 2008 for directing the erstwhile Patna Regional Development Authority (hereinafter referred to as the Authority) to act in accordance with order dated 20.3.2001, passed by the Chairman of the Authority in Vigilance Case no. 188B of 2000. Earlier petitioner's father, Late Radha Prasad Singh, had filed a complaint to the then Vice Chairman of the Authority, stating that his neighbour, Nepali Singh alias Jitendra Singh had constructed his house on Plot no.1906, Khata no. 52, Mauza Dhakanpura, Police station Gardanibagh, Patna without having the map plan of his house sanctioned by the Authority. Even, he had not left set back towards front, left and right side of his plot, as prescribed under the law. The petitioner further submitted that the said Nepali Singh also constructed a new wall on his

(petitioner's) land. The matter was enquired into by the Vigilance section of the Authority and finally order dated 20.3.2001 was passed in Vigilance case no. 188B of 2000 by the Vice Chairman of the Authority observing as follows:-

“It is clear that the said construction of the opposite party has been constructed without any sanction since the sanction has been refused by the PRDA and the refusal has been duly communicated to the opposite party.

Hence opposite party is given 4 weeks time from the date of this order to dismantle and remove the said construction failing which the PRDA would be at liberty to proceed against the said construction treating it to be an unauthorized construction”

In the writ petition, the petitioner had prayed that the respondents would implement order of the Vice Chairman of the Authority dated 20.3.2001, provided the same has not been altered by superior authority. This Court noticed that the petitioner had filed a representation dated 13.2.2008 before the Commissioner, Patna Municipal Corporation, who stepped into the shoes of the Vice Chairman of the erstwhile Authority. As the representation was filed, this court disposed of the writ petition with observation that if the petitioner files

a fresh representation before respondent no.2, the same would be disposed of within four months after giving opportunity of hearing to the other side also. It was further observed that strict view would be taken in cases where construction is being made in violation of laws/bye laws made in this regard.

In paragraph 8 of its affidavit dated 23.1.2013, the Corporation stated that the private respondent (Nepali Singh @ Jitendra Singh) of writ petition was directed to demolish the unauthorized construction within thirty days. A copy of the decision of the Authority was also Annexed as Annexure A. It appears that against the order of the Municipal Commissioner, respondent-Nepali Singh preferred an appeal before the Municipal Building Tribunal, bearing Appeal No.1 of 2013 which was dismissed on 30.5.2014. The opposite party (Nepali Singh @ Jitendra Singh) preferred C.W.J.C.No. 13728 of 2014 which too was rejected on 2.12.2014 with following observations:-

“Mr. Choudhary learned Senior counsel for the petitioner has tried to impress upon the Court that violation in construction if any, would be demolished by the petitioner subject to the condition that there is a re-measurement by the Corporation to confirm the position but in the opinion of this

Court, considering the circumstances in which the order has been passed by the Municipal Commissioner requiring him to abide by the revised map, there appears no infirmity in the orders warranting interference and this writ petition is accordingly dismissed.”

I.A.No.8852 of 2014 has been filed by opposite party, Nepali Singh alias Jitendra Singh stating that the order dated was passed without giving opportunity of hearing to him.

In my view, order passed in the writ petition nowhere prejudiced the petitioner as the Court did not issue any positive direction but observed that if the petitioner files fresh representation before respondent no.2, the same would be disposed of after giving an opportunity of hearing to the other side with further direction that strict view would be taken in cases where construction is being made in violation of laws/bye laws made in this regard.

In this view of the matter, the intervention petition is not maintainable and is accordingly rejected.

The petitioner submits that now the order passed by the Vice Chairman of the Corporation as well as by the Municipal Commissioner stood the test up to this Court, still neither the opposite party (Nepali Singh) has demolished the unauthorized

construction nor the Corporation has taken steps to undo the same.

Having regard to the facts and circumstances of the case, the contempt petition is disposed of with direction to the respondents to act in terms of order of this Court as well their own order passed in respect of unauthorized constructions.

(Samarendra Pratap Singh, J)

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