

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7174 of 2016

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1. Md. Nausherwan, son of Mr. Late S.M. Osman, also the present Secretary of 'Emarat Tauseef' and 'Emarat Tazzeen' Apartment Owners Society, resident of Flat No.G-8, "Emarat Tazzeen" Apartment situated at Mohalla Chitkohra, P.S. Gardanibagh, District- Patna-800002.
 2. Sarwari Khanam, wife of Md. Razi Ahmad Khan, resident of Flat No.T-6, in "Emarat Tazzeen" Apartment at Mohalla-Chitkohra, P.S. Gardanibagh, District- Patna-800002.
 3. Saghir Ahmad, son of Late Nazir Ahmad, resident of Flat No.T/4, Emarat Tauseef Apartment, situated at Mohalla- Chitkohra, P.S.-Gardanibagh, District- Patna-800002.
 4. Noorul Amin, son of Late Habibur Rahman, resident of Flat No.S/4, Emarat Tauseef Apartment, situated at Mohalla- Chitkohra, P.S.-Gardanibagh, District- Patna800002.

.... Petitioner/s

Versus

1. Patna Municipal Corporation through the Town Commissioner, Patna Municipal Corporation, having its office at Maurya Lok, P.S. - Kotwali, Town and District- Patna.
2. The Town Commissioner, Patna Municipal Corporation, having its office at Maurya Lok, P.S. - Kotwali, Town and District- Patna.
3. M/s Emarat Constructions (India) Private Limited, having its registered office at Chitkohra House, S.P. Verma Road, Police Station- Gandhi Maidan, Post- Office- G.P.O., District- Patna-800001, represented through its Managing Director, Mr. Syed Quamruddin Ashraf, son of Late Azizuddin Ashraf, resident of '2', Emarat Villa, Chitkohra, P.S.-Gardanibagh, District- Patna-800 002.
4. Dr. Syed Tauseefuddin Ashraf, son of Dr. Syed Kamaluddin Ashraf,
5. Dr. Tazeen Ashraf, Daughter of Dr. Syed Kamaluddin Ashraf.

Both are residents of 'Ashraf Building' Dr. Ashraf Lane,
S.P. Verma Road, Post Office- GPO, Police Station- Gandhi Maidan,
District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. J.S. Arora
Mr. Manoj Kumar
For the Respondent/s : Mr. Prasoon Sinha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 25-04-2016

Heard Mr. J.S. Arora, learned counsel appearing for

the petitioners and Mr. Prasoon Sinha, learned counsel
appearing for the Patna Municipal Corporation.



The petitioners are aggrieved by the constructions undertaken by the private respondents which, according to the petitioners, are in violation of the Municipal Bye-laws. According to the petitioners, the private respondents are acting contrary and in contravention to the Plan Case No. PRM-5/1004 of 2006 passed by the erstwhile Patna Regional Development Authority under the Bihar Regional Development Authority Act which stands replaced by the Patna Municipal Corporation under the provisions of the Bihar Municipal Act, 2007.

Mr. Arora, learned counsel for the petitioners has referred to a complaint filed by the petitioner on 27.2.2016 before the Town Commissioner, Patna Municipal Corporation placed at Annexure-1 drawing his notice to the alleged violation by the private respondent nos.3 and 4 as well as a legal notice present at Annexure-2. It is submitted that such complaint has not been acted upon by the Municipal Commissioner.

In my opinion, even though the grievance raised by the petitioners vide Annexure-1 may constitute a complaint but the same does not fulfill the requirements of a statutory application for it neither gives the names of the alleged offenders nor the details of violations are supported with

documents rather have been summarily discussed. If the petitioners so choose to draw statutory proceeding they are required to file a comprehensive application which satisfies a legal character and contains a memo of parties and gives the specific details as to the alleged violations qua the map so sanctioned by the Corporation, which I find are missing in the complaint annexed.

In the circumstances discussed above the petitioner, if so advised, may approach the Commissioner, Patna Municipal Corporation along with a comprehensive application and if such an application is filed by the petitioners, the Municipal Commissioner, Patna Municipal Corporation shall take steps for its disposal in accordance with law and only after giving an opportunity of hearing to the contesting parties.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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