

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6553 of 2016

Hareesh Jalan, son of Late Murli Manohar Jalan, resident of Quila House, P.S.- Chowk, Patna City, District- Patna.

.... Petitioner/s

Versus

1. Patna Municipal Commissioner cum Chief Municipal Officer, Patna Municipal Corporation, Maurya Lok, Patna.
2. Patna Municipal Corporation through Municipal Commissioner, Mauryalok, Patna.
3. Bal Manohar Jalan, son of Late Hira Lal Jalan.
4. Giriraj Manohar Jalan, son of Late Hira Lal Jalan.
5. Nikhil Jalan, son of Late Shyam Manohar Jalan.
6. Yamuna Pd. Mahto, servant Bal Manohar Jalan.

All respondent nos.3 to 6 are residents of Quila House, P.S. Chowk, Patna City, District- Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sandip Kumar
Mr. Alok Kumar @ Alok Kr Shahi
For the Respondent-Corporation : Mr. Prasoon Sinha
For the Private Respondents : Mr. Mrigank Mauli

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-04-2016

Heard Mr. Sandip Kumar, learned counsel appearing for the petitioner, Mr. Prasoon Sinha, learned counsel appearing for the Patna Municipal Corporation and Mr. Mrigank Mauli, learned counsel who has registered appearance on behalf of the respondent nos.3 to 6 upon service of copy of the writ petition.

The petitioner had earlier come before this Court questioning the proceedings arising from Vigilance Case No.38B of 2011 in CWJC No.23205 of 2011. While the matter remained pending that the vigilance case was disposed of by the Municipal



Commissioner holding the construction made by the petitioner to be illegal. The petitioner being aggrieved preferred statutory appeal under the provisions of the Bihar Municipal Act, 2007 giving rise to Appeal No.32 of 2011. The matter has remained pending before the Municipal Tribunal for final adjudication. CWJC No.23205 of 2011 was taken up for consideration on 31.3.2016 when Mr. Sandip Kumar, learned counsel appearing for the petitioner informed that final orders have been passed in Vigilance Case No.38B of 2011 and that though the writ petitioner has preferred a statutory appeal but since the Tribunal was not functional hence there was no interim protection to the petitioner and which may be extended to him.

The submission advanced by Mr. Sandip Kumar obviously could not have been given a consideration in CWJC No. 23205 of 2011 since the proceedings in Vigilance Case No.38B of 2011 stood disposed. In the circumstances CWJC No.232015 of 2011 was disposed of leaving it open for the petitioner to seek proper course of remedy for the interim relief so prayed. The writ petition was disposed of on 31.3.2016 and on 5.4.2016 an application for interim stay is stated to have been filed before the Tribunal in Appeal No.32 of 2011, a copy of which has been placed on record at Annexure-5 to the present writ petition.



Enclosing the said stay application it is now submitted by Mr. Kumar, learned counsel for the petitioner that in absence of constitution of the Tribunal that the stay application is not being heard and thus the petitioner would be subjected adversely by virtue of the final order passed in Vigilance Case No.38B of 2011 and which has necessitated the present writ petition for interim protection.

Counsel for the respondents do not dispute the position that the Tribunal is not functioning and thus the stay application cannot be considered.

Having heard learned counsel for the parties and in the extraordinary circumstances discussed above I deem it fit and proper to direct the petitioner, the private respondents and the Patna Municipal Corporation to maintain status-quo as existing today and which directions would continue to operate until the stay application present at Annexure-5 is considered and disposed of by the Municipal Building Tribunal.

It goes without saying that no sooner the Tribunal is constituted that the petitioner would press his stay application for interim relief present at Annexure-5 and the Tribunal shall dispose of the same in accordance with law preferably within three months from the constitution thereof. The parties herein would be under

duty to cooperate in disposal of the matter and in case any of the
contesting parties fails in the obligation and delays the disposal of
the stay application as well as the main appeal, then the Tribunal
would be at liberty to proceed in the matter in accordance with
law.

This writ petition is disposed of with the directions
aforementioned.

(Jyoti Saran, J)

SKPathak/-

NAFR	
CAV DATE	
Uploading Date	13-04-2016
Transmission Date	