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1. Patna District
2. Municipal Corporation
3. The Executive Engineer

Arising out of

- Appellant/s

M/s Anmol Homes Private Limited, a Company incorporated under the Provisions of Companies Act, 1956, having its registered office at 105 - E, Om Raj Apartment, Jamal Road, Patna, P.S. Gandhi Maidan, Town and District - Patna through one of its Director, Rajesh Kumar Sikaria son of Sri Babu Lal Sikaria resident of A - 4/B, Pushpa Vihar Apartment, Exhibition Road, P.S. Gandhi Maidan, District - Patna

.... Respondent/s

For the Appellants	:	Mr. Parsoon Sinha, Advocate
For the Respondents	:	Mr. S. D. Sanjay, Sr. Advocate with Mr. Alok Kumar Agrawal and Ms. Anubhuti Modi, Advocates

**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 21-09-2016**



The present Letters Patent Appeal is directed against an order passed by the learned Single Bench on 11th December, 2013. The appellant- Municipal Corporation is aggrieved against the directions in respect of how the deviations in the building have to be dealt with or compounded. It is contended that certain directions are contrary to an order passed by a Division Bench on 10.05.2013 and 02.07.2013 in C.W.J.C. No. 8152 of 2013 (Narendra Mishra vs. The State of Bihar & Ors.). The attention of the Court was not also drawn to the Bihar Apartment Ownership Act, 2006 which mandates that no allottee shall enter into the possession of apartment or a part thereof until the competition certificate is given by the builder to the competent authority and the occupancy permission is granted by the competent authority. The competent authority is said to be the Municipal Corporation.

On the other hand, learned counsel for the writ applicant, the respondent, points out that in terms of the direction, the Municipal Corporation has passed the final order. An appeal against the said order was filed before the Municipal Building Tribunal which has been decided and thereafter the matter has attained finality that the building is now in occupation of the writ applicant or the allottees thereunder. He states that the writ applicant has no grievance and that the appeal is in fact rendered infructuous.

Keeping in view the subsequent developments, we find that the order passed by the learned Single Bench does not require detailed discussions except to say that *prima facie* it runs counter to the provisions of Section 7 (2) (i) of the Bihar Apartment Ownership Act, 2006 and Section 327 of the Bihar Municipal Act, 2007.

In view thereof, the present appeal is disposed off without deciding the issues raised by the learned Single Bench but keeping the questions open in light of the statutory provisions brought to the notice of the Court in the present Letters Patent Appeal. Thus, the order of the learned Single Bench ceases to have any binding or any legal effect.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P.Kumar

AFR/NAFR	NAFR
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