

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4057 of 2016

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1. Ramesh Kumar Akhauri S/o Late S.S. Akhauri, Kadam Kuan, P.S.- Kadam Kuan, District- Patna. present address J/1201 Amarpali Zodise Park, Sector 120, Noida- 201301.
 2. Subodh Kumar Sinha S/o Late S.N. Sinha, Nageshwar Colony, P.S.- Buddha Colony, District- Patna

.... Petitioner/s

Versus

1. Patna Municipal Corporation through Municipal Commissioner P.M.C. Mouryalok, Patna.
2. Municipal Commissioner, Patna Municipal Corporation Maouryalok, Patna.
3. Vigilance Officer Patna Municipal Corporation, Mouryalok, Patna.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shivjee Singh, Advocate

For the Respondent/s : Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 14-03-2016 Heard Mr. P.R. Shrivastava, learned counsel for the petitioner and learned counsel for the respondents.

The petitioners are aggrieved by the failure on the part of the Municipal Commissioner to take notice of the complaint filed by them, a copy of which is enclosed at Annexure-3 and 4 respectively. The petitioners complain of deviation in the sanctioned plan by the Builder, namely, Murlidhar Pandey as well as the Secretary of Suman Sahkari Grih Nirman Samiti. According to the petitioners the apartment in question which is being constructed as per map plan no. 4-403/90 dated 24.11.1990

on Survey Plot No. 144, Ward No. 13(old), 38(new), Circle No. 20, Holding No. 69, Mohalla-Kadamkuan, Rajendra Path in the town and district of Patna, violates the statutory requirements.

Mr. Shrivastava has invited the attention of this Court towards a representation dated 04.8.2014 as well as the reminder thereto present at Annexure-4, to submit that the complaint has not been noticed.

I have heard learned counsel for the parties and I have perused the records. No doubt the complaint present at Annexure-3 and 4 are in the nature of representation and thus in the opinion of this Court it does not fulfill the requisites for statutory application for registration of a formal vigilance case by the Municipality for even while it discusses the deviations complained of and mentions the persons responsible therefor but it neither contains a memo of parties for the purpose of issuance of notice nor satisfies the character of a statutory application.

In the circumstances, this writ petition is disposed of with a liberty to the petitioners to file a proper application under the provisions of the Bihar Municipal Act, 2007 before the Municipal Commissioner by arraigning the parties responsible for the alleged deviations as well as by enclosing the documents to support the complaint made against such persons and it goes

without saying that any such application being filed by the petitioners which is complete on its requirements, would be considered and disposed of by the Municipal Commissioner, Patna Municipal Corporation in accordance with law but only after an opportunity of hearing to the concerned parties i.e. the Builder as well as the land owners. An expeditious disposal preferably within six months from the filing of such application would be appreciated.

(Jyoti Saran, J)

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