

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.762 of 2016
IN
Civil Writ Jurisdiction Case No. 9636 of 2015**

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1. Durgesh Narayan Sinha, Son of late Rai Bahadur Shyamdev Narayan Sinha, resident of Village / Mohalla- Bhagwan Bazar, P.S.- Bhagwan Bazar, District-Saran Chapra.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Divisional Commissioner, Saran at Chapra.
3. The District Magistrate, Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra.
5. The Deputy Collector, Land Reforms, Sadar, Chapra.
6. The Sub-Divisional Officer, Sadar, Chapra.
7. The Circle Officer, Sadar, Chapra.
8. The Sub-Divisional Police Officer, Sadar, Chapra.
9. The Executive Officer, Chapra Nagar Parishad, Chapra.
10. The Circle Officer, Sadar Block, Chapra.
11. The S.H.O. Bhagwan Bazar Police Station, Chapra.
12. The Tax Collector, Chapra Nagar Parishad, Chapra.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bindhyachal Singh, Adv.
Mr. Ram Binod Singh, Adv.
For Res. No.13 : Mr. Ajay Kumar Singh, Adv.
For the Respondent/s : Mr. Kinkar Kumar, SC-27
Mr. Sushant Praveer, AC to SC-27.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

JUDGMENT AND ORDER

ORAL

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 24-06-2016

By an order, dated 26.03.2015, passed by respondent

No.3 herein, namely, District Magistrate, Saran at Chapra, the
appellant herein, namely, Durgesh Narain Sinha, was restrained



from carrying out any construction on the land in question. The order, dated 26.03.2015, aforementioned, was put to challenge by the appellant herein by way of a writ petition, made under Article- 226 of the Constitution of India, which gave rise to C.W.J.C. No.9636 of 2015. By order, dated 18.01.2016, a learned Single Judge of this Court, while holding that the order, dated 26.03.2015, could not have been passed by the District Magistrate without affording any opportunity of hearing or to submit explanation to the proposed action/ order against the writ petitioner, i.e. the appellant herein, treated the order, dated 26.03.2015, as a notice to the appellant herein for the purpose of submitting his explanation against the proposed action/ order with respect to the land in question and accordingly directed that the District Magistrate shall pass an order afresh, if need be, in accordance with law, after considering the explanation which may be offered by the petitioner, i.e. the appellant.

Heard Mr. Bindhyachal Singh, learned Counsel, appearing on behalf of the appellant, and Mr. Sushant Praveer, learned Assistant Counsel to Standing Counsel No.27, appearing on behalf of the State-respondents. Heard also Mr. Ajay Kumar Singh, learned Counsel, appearing on behalf of respondent No.13.

Having received the explanation from the appellant herein pursuant to the order, dated 18.01.2016, passed by the



Learned Single Judge, the District Magistrate, Saran, has made an order, on 11.02.2016, whereby he has rejected the appellant's explanation and has directed the Executive Officer, Chapra Municipal Board, to cancel the mutation of the land, bearing Khesra No.5820, with further direction to the Registrar not to register any document with regard to the land in question and to the Sub-divisional Officer, Saran, at Chapra, not to allow any construction over the land in question.

Considering the fact that in compliance with the directions given by the order, dated 18.01.2016, the appellant herein has already submitted his explanation and an order, having considered the said explanation submitted, has been passed on 11.2.2016, by the District Magistrate, we are clearly of the view that the order, dated 18.01.2016, having been taken to its logical conclusion, cannot be, now, subjected to an appeal.

Inasmuch as the question of jurisdiction, though raised in C.W.J.C. No.9636 of 2015, was not answered and decided, it would remain open to the petitioner to challenge not only the jurisdiction of the District Magistrate to make the orders, dated 26.03.2015 as well as 11.02.2016, but also the correctness of the order aforementioned, on its merits, by way of an independent writ application under Article 226 of the Constitution of India or by

taking recourse to such other provisions of law as may be permissible.

With the above observations and directions, this application stands disposed of.

All the interlocutory applications stand disposed of.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

K.C.jha/-

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