

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1013 of 2016

In

Civil Writ Jurisdiction Case No. 6784 of 2015

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1. Nazia Begum, wife of Md. Ali, presently Chief Councilor, Nagar Parishad, Sasaram, P.S. Sasaram, District Rohtas at Sasaram.
 2. Chandra Shekhar Singh, son of Prem Chand Singh, presently Deputy Chief Councilor, Nagar Parishad, Sasaram, P.S. Sasaram, District Rohtas at Sasaram.

.... Respondents no. 6 & 7- Appellants.

VERSUS

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development & Housing Department, Government of Bihar, Patna.
3. The Principal Secretary, General Administration, Government of Bihar, Patna.
4. The District Magistrate, Rohtas at Sasaram, District Rohtas at Sasaram.
5. The Executive Officer, Nagar Parishad, Sasaram, P.S. Sasaram, District Rohtas at Sasaram.

..... Respondents no.1 to 5- Respondents.

6. Dasrath Prasad, Son of Late Jagdeo Ram, resident of Mohalla – Kabirganj, P.O. Sasaram, P.S. Sasaram Town, District Rohtas at Sasaram.
7. Atendra Kumar Singh, son of Late Baban Singh, resident of Mohalla – New Area Kabirganj, P.O. Sasaram, P.S. Sasaram Town, District Rohtas at Sasaram.

.... Petitioners-Respondents.

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Appearance :

For the Appellants : Mr. Rajiv Verma, Sr. Advocate
Mr. Sanjay Kumar, Advocate
For the Respondent no. 6 & 7 : Mr. S.B.K. Mangalam, Advocate
Ms. Anita Kumari, Advocate
For the State : Mr. S. Rahman, AC to SC - 7

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH)**

7 23-06-2016

The appellant Nos. 1 and 2, who were Chief Councillor and Deputy Chief Councillor of Nagar Parishad, Sasaram, are aggrieved by the order, dated 03.08.2015, passed in C.W.J.C. No. 6784 of 2015, filed by respondent Nos. 6 and 7 (appellant Nos. 1 and 2) herein), whereby the learned single Judge disposed of the writ application with a direction to the Principal Secretary, Urban Development & Housing Department, Government of Bihar, Patna, to consider the allegation so made by the writ petitioners (respondent Nos. 6 and 7 herein), in the backdrop of the report submitted by the Sub-divisional Officer, Sasaram, duly recommended by the District Magistrate, Sasaram, after giving opportunity of hearing to all sides.

2. The relief of the appellants is primarily founded



on the ground that neither they were noticed in the inquiry conducted by the Sub-divisional Officer, who was not authorized to conduct such inquiry in view of Section 65 of Bihar Municipal Act, nor were they heard either by the Principal Secretary or by the learned single Judge in the writ application.

3. Learned counsel, thus, submits that had the appellants got an opportunity, they could have explained that the Sub-divisional Officer, Sasaram, was not authorized under the law to make an inquiry and any subsequent order, passed by the Superior Authority on the basis of the report submitted by the Sub-divisional Officer, would also be *non est* in law.

4. On the other hand, learned Counsel for the writ petitioners has raised preliminary objection with respect to the maintainability of the appeal. He submits that pursuant to the direction of the Court, the Principal Secretary, Urban Development & Housing Department, Government of Bihar, Patna, has disposed of the representations of the petitioners by order, dated 26.05.2016, which, too, has been challenged by filing I.A. application, being I.A. No. 4682 of 2016, though it

provides a fresh cause of action, for which the appellants, if so advised, could file a separate writ application.

5. We find substance in the submission of the learned Counsel, appearing for the writ petitioners, and thus, the instant appeal is permitted to be withdrawn with liberty to the appellants to challenge the order, dated 26.05.2016, on grounds taken before this Court as also on such grounds as may be available under the law.

6. With liberty aforesaid, this appeal stands disposed of.

(I.A. Ansari, ACJ.)

(Samarendra Pratap Singh, J.)

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