

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.293 of 2016

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Nand Kishore Singh, Advocate, son of late Raghunath Singh, resident of 31, Surya Apartment, Frazer Road, P.S. Gandhi Maidan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Patna.
2. The Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
3. The Hon'ble High Court of Judicature at Patna (Administrative side) through the Registrar General, Patna.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Nand Kishore Singh, Advocate
(in person)

For the Respondents-State : Mr. Lalit Kishore, P.A.A.G.-I
Mr. Pushkar Narain Shahi, A.A.G.-10

For the High Court : Mr. Satyabir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 24-10-2016

An Advocate of this Court has invoked the public interest litigation jurisdiction of this Court for a direction to High Court to put a requisition to the State for handing over/transfer/assignment of the portion of vacant land falling in the eastern side of boundary wall of the High Court up to the Gardiner Road, which was being used as residential premises of the members of the Legislative Assembly after such buildings stands removed.

2. The petitioner points out that the Patna High Court was established in the present campus in the year 1916, whereas the land falling in the eastern side of the present premises was given to the State Government for construction of residential premises for the Legislators in 1960s. Somewhere in the year 2014, such buildings were demolished for construction of new flats for the Legislators.

3. At this stage, the petitioner invoked the jurisdiction of this Court to contend that the land, which has been made available after demolition of the old construction, is genuinely required for the High Court and keeping in view the future expansion of the Court.

4. On behalf of the State, it has been, *inter alia*, averred that proposed MLC housing project for the members of the Legislative Assembly has been formulated on approximately 40 acres of land situated on eastern side of the High Court Campus which was sanctioned on 30th December, 2011. It is also averred that housing plan has been re-designed after making adjustment for transfer of land measuring 3.235 acres and 0.23 acre to the Patna High Court campus. It is also stated that Patna High Court extension phase-1, comprising 31000 sq. meter of built up area, is under construction to create 46 courts and allied facilities, which is more than 1.5 times of the existing facilities. There is comprehensive master plan of the future extension which has already been approved by the High Court. It is also

mentioned that on the east of the Patna High Court campus, there are security barracks for High Court, residences of two Hon'ble Judges, Miller School etc, which have retained unchanged in the proposed project. It is also pointed out that the residential premises for the members of the Legislative Assembly were constructed in 1950s.

5. We have heard the petitioner and Mr. Lalit Kishore, learned Principal Additional Advocate General, Bihar and find that the requirement of the High Court has been well taken care of when the Housing Project for the members of the Legislative Assembly has been approved. Admittedly, the land over which the Housing Project is now being planned was being used for the residential premises for the members of the Legislative Assembly for at least more than 50 years. There cannot be said to be any illegality if with the passage of time, on account of demand of more residential quarters, it has been decided to demolish the existing structures and to construct another set of flats. Such part of the land is in occupation of the State Government for more than 50 years. Therefore, it would not be legitimate to stake claim on such land for the future requirement of the High Court. Therefore, once it has been decided to reconstruct the residential flats, it will not be fair to assert that the land should be given to the High Court when another building complex for the High Court is under construction.

6. We appreciate the concern shown by the member of the

Bar but keeping in view the overall availability of land and the fact that the land was being used by the members of the Legislative Assembly for more than 50 years, we do not find that any direction is required to be issued for handing over the land in question to the High Court.

7. The writ application stands disposed of.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil

AFR/NAFR	A.F.R.
CAV DATE	N. A.
Uploading Date	28.10.2016
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