

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4723 of 2016

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Kumar Ravindra Singh, Son of Late Radha Prasad Singh, Resident of Mohalla -
Gardani Bagh Road No. 6/D Chatterji Lane Sadhanapuri, P.S. Gardani Bagh,
District - Patna

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Urban Development
Government of Bihar, Patna
2. The Commissioner Municipal Corporation, Patna
3. The Divisional Commissioner, Patna Division, Patna
4. The Land Reforms Deputy Collector, Patna Sadar, Patna
5. The District Collector, Patna
6. The Sub - Divisional officer, Patna Sadar, Patna
7. Jitendra Singh alias Nepali Singh Son of Late Chandrika Singh, Resident of
Mohalla - Gardanibagh, Chaterjee Lane, Road No. 6/D, P.S. Gardanibagh, District -
Patna

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Md. Naseem Mukhtar, Mr. Jagjit Roshan, Mr. Ambanish Kurmar, Advocate
For the P.M.C.	:	Mr. Sanjay Prakesh Verma, Advocate
For the State	:	Mr. Rajesh Kr. Sinha, A.C. to G.P.23

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-01-2017

Heard parties.

The writ petitioner confines his prayer only for a
direction to the Patna Municipal Corporation to demolish the illegal
structure which was made either in violation of sanctioned map or
without sanction map.

The authorities of the Municipal Corporation have
already held that private respondent has raised such structure which is



beyond compounding. Such order has been upheld by the Tribunal as well as by a Single Judge Bench and, thereafter, Division Bench has also held and ordered on 20.12.2016 in L.P.A. No.1918 of 2015 as follows:-

“We, accordingly, held in our order dated 01.12.2016 that upon hearing learned counsels for the parties, we were also of the view that the impugned order did not call for any interference. The matter was, thereafter, adjourned upon the contention of learned counsel for the appellant that in terms of Section 371 of the Bihar Municipal Act, 2007, there is a provision to permit compounding and realization of such fine or penalty as prescribed under the Act or Rules or Regulations, if deviation is to the extent of the permitted limit and it was submitted that the entire structure may not be demolished but only the deviation beyond the permitted extent may be ordered to be demolished, for which the appellant was ready to pay the penalty as prescribed.

A supplementary counter affidavit has been filed on behalf of the Patna Municipal Corporation in which it is stated that a report was submitted by the team of Engineers of the Patna Municipal Corporation mentioning therein, inter alia, that the construction was made by the appellant in complete violation/deviation of the revised sanctioned plan/map and further it was mentioned therein that the earlier map submitted by the appellant before the PRDA was refused sanction and a revised map was submitted on behalf of the Architect which was sanctioned on the condition that the old construction by the appellant over the land in question would be demolished and on the same place/area the new construction was sanctioned/accorded by the authorities concerned with specific provision for parking space indicated in the sanctioned map, but in the parking space left/shown in the revised map, a room,



kitchen, bathroom and garage were constructed by the appellant without demolishing the building, as mentioned/shown in the sanctioned map and thereby additional construction was made on the area shown/left in the sanctioned plan for parking space which is not permissible for condonation.

Learned counsels for the parties refer to By Law 76 of the Bihar Building Bye-Laws, 2014.

We find that in view of the nature of deviation made by the appellant the same cannot be compounded as it comes under several clauses of By Law 76, which prohibits compounding of such deviation.

In the aforesaid view of the matter the appeal, being devoid of merit, is accordingly dismissed.

The interim order passed on 19.11.2016 stands vacated.”

In the aforesaid background of the matter, nothing remains to be decided in this case as only course open to the Municipal Corporation is to execute its order.

Learned counsel for the Patna Municipal Corporation submits that the order would be executed within a period of four weeks as step was taken and boundary wall was already demolished but, in view of the order dated 19.11.2016 passed by the Division Bench, further execution of the demolition work was stalled. However, now the Division Bench has vacated the earlier order passed on 19.11.2016 and the concerned appeal has been dismissed.

Accordingly, on such assurance given by the Patna



Municipal Corporation, this writ application stands disposed of.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2017
Transmission Date	NA

