

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1091 of 2015

IN

Civil Writ Jurisdiction Case No. 18874 of 2010

- =====
1. Smt. Afsana Parveen wife of Imteyaz Alam Ansari at present Chief Councillor cum Chairman empowered Standing Committee, Municipal Council, Araria.
 2. Mr. Paras Kumar Bhagat at present Ward Councillor and Member of Empowered Standing Committee, Municipal Council, Araria.
 3. Mr. Resham Lal Paswan, Ex - Ward Councillor, Ward No. 15, Municipal Council, Araria.
 4. Smt . Hasina Khatoon Wife of Kurwan Ali, Ex- Ward Councillor, Ward No. 24, Municipal council, Araria.
 5. Sri Azim Akhtar, Ex- Ward Councillor, Ward No. 25, Municipal Council, Araria.

.... Appellants

Versus

1. Md. Parwez Alam Son of Late Md. Idris, resident of Kakarwa Basti, Ward No.- 29, P.S. & District - Araria.
2. The State of Bihar.
3. The Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. The District Magistrate, Araria.
5. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
6. Municipal, Council, Araria through its Executive Officer.
7. Mr. Anil Kumar Son of not known Wx- Executive Officer, Municipal Council, Araria.

.... Respondents

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Appearance :

For the Appellants : Mr. Praveen Kumar, Advocate
For the Respondent State: Mrs. Archana Meenakshee, G.P.-6
Mr. Prabhat Ranjan, AC to GP-6
For the Nagar Parishad: Mr. M. Pd. Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 09-08-2017

Heard counsel for the appellant, counsel for the State
and the Nagar Parishad.

A body like Nagar Parishad cannot be allowed to act



like land mafia to grab public land, build shops and let it out for hire for generation of revenue. From the narration of the facts in the impugned order dated 23.03.2015 it is evident that the shops, which have been built by the Nagar Parishad, is situated on the land belonging to the Road Construction Department and this land was kept for expansion of the road for easy access of people and there was a public purpose for which the land in question was required to be utilized. The larger public interest of free access and movement where load is increasing every day due to expansion of population and fleet of vehicles, the sanctity of the land for expansion of road is paramount vis-à-vis revenue earning by a local body i.e. Nagar Parishad.

This Court will not come in the way of Nagar Parishad confining itself to such activity provided such construction and revenue earning is done from the land belonging to the Nagar Parishad, but this expansionary tendency of the Nagar Parishad cannot be condoned merely because they happen to be a public body. They in fact are saddled with more responsibility to obey the law rather than committing breach thereof.

The decision of the learned single Judge that it is a clear case of encroachment and, therefore, demolition was mandatory and the direction was given upon the District Magistrate, Araria, seems



to be justified in the given facts. Either the Nagar Parishad demolishes those constructions made on the land belonging to the P.W.D. on its own or the District Magistrate should do it within a period of four weeks from today.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

AFR/NAFR	NAFR
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