

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.417 of 2016
IN
Civil Writ Jurisdiction Case No. 6529 of 2000

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Prabhat Agarwal @ Pradeep Ranjan S/o Late Prem Narayan Agrawal Resident of Mohalla - 102 E, Sri Krishnapuri, Boring Road, P.S. Sri Krishnapuri, District - Patna as the legal heir of deceased Dr. Hem Narayan Agrawal (the Writ Petitioner of CWJC No. 6529 of 2000)

.... Appellant/s

Versus

1. The State of Bihar
2. The Collector, Patna
3. The Patna Regional Development Authority, Patna through its Vice Chairman, Since the PRDA Dissolved in its Place now Patna Municipal Corporation through its Municipal Commissioner

.... Respondent/s

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Appearance :

For the Appellant/s : None

For the Respondent/s : None

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-08-2017

None appears for the appellant.

This appeal has been filed by the appellant Prabhat Agarwal @ Pradeep Ranjan claiming to be the uncle of the sole writ-petitioner Dr. Hem Narayan Agrawal who had filed the writ petition, CWJC No. 6529 of 2000 and during the pendency of the writ petition expired on 27th of May, 2010. The appellant now wants to prosecute the matter as he is interested in the lis. We permit him to do so.

However, on going through the materials on the record we find that the appellant has filed this appeal under Clause 10 of the Letters Patent being aggrieved by order dated 9.9.2015 passed in CWJC No. 6529 of 2000. The prayer made by the writ petitioner in the writ petition was to issue a writ in the nature of mandamus



commanding the respondents not to demolish the structure of the writ petitioner standing over the plot in question on the ground that the petitioner was owner of the property in question and after considering the facts and circumstances of the case in detail and taking note of the pleadings that had come on the record, the learned Writ Court found that serious disputed questions of facts and law are involved in the matter and placing reliance on the law laid down by the Supreme Court in the case of **D.L.F. Housing Construction (P) Ltd. Vs. Delhi Municipal Corpn. & Ors.: AIR 1976 SC 386** has held that such disputed question of law and fact cannot be adjudicated in writ petition and granted liberty to the petitioner to file civil suit seeking injunction in the matter. We are of the considered view that in doing so the learned Writ Court has not committed any error warranting reconsideration. While doing so the writ court had granted liberty to the petitioner to file a civil suit and for a period of sixty days injunction was also granted by the learned writ court itself.

The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

S.Pandey/-

AFR/NAFR	NAFR
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