

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15497 of 2016

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1. Munmun Kumari W/o Rakesh, Behind Tulsi Apartment Govind Mitra Road, P.S. Kadamkuan, Patna.
 2. Punam Kumari, Wife of Binod Kumar, Resident of 8E/138 Bahadurpur Housing Colony, P.S. Agamkuan, District Patna.
 3. Raj Kumar Prasad, Son of Sri Ramji Prasad Maurya Vihar Colony, Kumharar, P.S. Agamkuan, Patna.
 4. Vivek Kumar @ Vikash Kumar S/o Late Braj Kishor Prasad, Braj Tower, Kumharar, P.S. Agamkuan, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Housing and Urban Development, Government of Bihar, Patna.
2. The Principal Secretary, Department of Housing and Urban Development, Government of Bihar, Patna.
3. The Principal Secretary, Department of Land Acquisition Government of Bihar, Patna.
4. The District Magistrate, Patna.
5. The District Land Acquisition Officer, Patna.
6. The Sub Division Officer, Patna City, Patna.
7. The Senior Superintendent of Police, Patna.
8. The State Housing Officer, Agam Kuan Police Station, Patna.
9. The Patna Municipal Corporation through the Municipal Commissioner, Patna.
10. The Municipal Commissioner, Patna Municipal Corporation, Patna.
11. The Estate Officer, Patna Municipal Corporation, Patna.
12. The Director, Urban Planning Section, Patna Municipal Corporation, Patna.
13. The Executive Officer, Kankarbagh Circle, Patna Municipal Corporation Patna.
14. The Executive Engineer, Kankarbagh Division, Patna Municipal Corporation, Patna.
15. Ajay Kumar, Son of Sri Nagarmal Bajoriya Resident of Jayneet House, S.P. Verma Road, P.S. Gandhi Maidan Town & District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Parasmani, Advocate
For the Respondent/s	:	Mr. Prasoon Sinha and
(PMC)		Mr. Yashraj Bardhan, Advocates
For the Private Respondent/s :		Mr. Mrigank Mauli,
		Mr. Kumar Ravish,
		Mr. Arif Daula Siddiqui,
		Mr. Sanket and
		Mr. Prince Kumar Mishra, Advocates.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 24-03-2017



Heard learned counsel for the Petitioners, State and Mr. Praseon Sinha, learned counsel for the Patna Municipal Corporation.

2. This case was being heard analogous to C.W.J.C. No. 16802 of 2013 and a common order was passed on 16.03.2017 directing for a fresh measurement taking into account the fixed point as was shown in the Revenue map. The exercise was done as per the order of the Court dated 16.03.2017 on 21.03.2017. The said order was passed in presence of learned counsel of all the stake holders. Today, a 4th supplementary counter affidavit has been filed on behalf of the respondent no. 6 in C.W.J.C. No. 16802 of 2013, which discloses that the said measurement has brought to light the fact that there is encroachment by the present petitioners.

3. Learned counsel for the petitioners submitted that they may be given time to reply to the said counter affidavit. They further submitted that they were not allowed to take part in the measurement. On a query of the Court as to why such fact has not been brought on record by filing an affidavit, the reply is that the petitioners were waiting for the present report. The Court finds such stand to be self contradictory. If the petitioners were waiting for the present measurement, it is clear that they were taking a chance, and thus, willfully they were not participating in the measurement, if it is accepted. They not having filed any affidavit to this effect is also



indicative of the fact that no such plea was taken by them before the team which was measuring of allowing them to participate. Thus, an issue which is a pure question of fact, not having been stated on oath and only orally submitted before the Court today, cannot be accepted.

4. Learned counsel for the Patna Municipal Corporation informs the Court that in light of the measurement, encroachment having been found by the petitioners on the land which was acquired for the Patna Municipal Corporation, vigilance cases have been instituted.

5. In view of such a situation, where substantive vigilance cases have been instituted against the petitioners, this Court does not deem it necessary to keep the present matter pending. The petitioners shall be at liberty to pursue the matter in the vigilance cases before the authorities in which order shall be passed after giving opportunity of hearing to them, in accordance with law.

6. Thus, in the present case, at this stage, no judicial interference is required.

7. Accordingly, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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