

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2752 of 2016

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1. Poonam Kumari, W/o Amitabh Kumar, resident of Mohalla- Kalambag Chowk,
Ward No.-29, P.O.- Ramna, P.S.- Kazi Mohammadpur, Distt- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Urban Development & Housing Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
4. The Chairman, Zila Parishad, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The Municipal Commissioner, Municipal Corporation, Muzaffarpur.
7. The Deputy Development Commissioner-cum-Chief Executive Officer, Muzaffarpur.
8. The Zila Parishad , Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Verma, Advocate
Mr. Suman Kr. Verma, Advocate
Mr. Anish Kumar, Advocate

For the State of Bihar : Mr. Saroj Kr. Sharma, AAG-3
Zila Parishad, Muzaffarpur: Mr. Abhay Kr. Sinha 'Kundan'

For the M.M.C. Mr. Gyan Prakash Ojha
Mr. Sushant Praveer, Advocates

For the Intervener Mr. Uday Prakash Sharma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-07-2017

Petitioner claiming to be a public spirited person has filed this writ petition in public interest and it is his contention that within the jurisdiction of Municipal Corporation, Muzaffarpur, a large scale encroachment has been undertaken and they are not being removed. Commercial constructions have been made by the Zila



Parishad, Muzaffarpur in an illegal manner and constructions even of hotels have been permitted on encroached areas causing grave hindrance to the people at large.

On notice being issued, the Municipal Corporation and the Zila Parishad, Muzaffarpur have filed a detailed counter affidavit and have indicated that certain encroachments have been removed, but the Zila Parishad does say that in certain cases they have found illegal constructions for which action would be taken.

Learned counsel for the petitioner emphasized that from the communication available on record, based on the supplementary counter affidavit filed by the Zila Parishad, respondent Nos.4 and 7, Annexure I dated 9.5.2017, it would be seen that constructions have been made without there being sanctioned plan within the premises of Municipal Corporation, shops have been constructed on public drains and in narrow lanes, covered by staircases causing hindrance to the move of traffic. Taking note of the aforesaid, learned counsel argues that all such encroachments should be removed.

We find much force in the submission of the learned Counsel and the supplementary counter affidavit filed by respondent Nos.4 and 7 on 20th of July, 2017 does indicate that there are certain illegal constructions by way of encroachment which are to be



removed.

We direct the Zila Parishad and the authorities of the Municipal Corporation, Muzaffarpur to identify such illegal constructions as are detailed in the counter affidavit and the annexures filed along with the supplementary counter affidavit of respondent Nos.4 and 7 as Annexure 3 and 3/A and proceed to remove the encroachment after following the due process of law, within a period of six months from the date of receipt/production of a copy of this order.

The Municipal Corporation and the Zila Parishad are also granted opportunity to file an application under the Bihar Removal of Encroachment Act before the competent Circle Officer and the Circle Officer, after following the due process of law and hearing the encroachers, shall take steps within six months from the date of filing of the application.

In case steps are not taken within six months as directed hereinabove, petitioner shall be at liberty to bring these facts and seek revocation of the order.

Submission was made during the course of hearing by learned counsel for the respondents that the report available on record indicates that petitioner himself is an encroacher. If that be so, the respondents are free to proceed even against the petitioner in



accordance with law.

Commissioner, Municipal Corporation, Muzaffarpur is appearing in person. As the counter affidavit has been filed by the Corporation, he is exempted from appearing.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.7.2017
Transmission Date	N/A

