

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.130 of 2017

IN

Civil Writ Jurisdiction Case No. 17727 of 2016

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Vimal Saw @ Vimal Gupta, son of Late Mohan Sah @ Mohan Ram, R/o Mohalla –
Chanwar Takiya, Sasaram, P.S. Sasaram (Town), District Rohtas

.... Petitioner / Appellant

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna,
2. The Principal Secretary, Urban Development & Housing Department, Govt. of Bihar, Patna,
3. The District Magistrate, Rohtas at Sasaram,
4. The Sub Divisional Magistrate, Sasaram, Rohtas,
5. Nagar Parishad, Sasaram through its Executive Officer,
6. Nagar Executive Officer, Nagar Parishad, Sasaram,
7. Sanjeev Gupta @ Chunnilal, son of Late Panna Lal Gupta,
Resident of Mohalla- Chawar Takiya, P.S. Sasaram (T), District Rohtas.

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Subash Kumar, Advocate.

For the Respondent/s : Mr. (Advocate).

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 02-04-2018

Challenging the judgment dated 23.11.2016, the original writ petitioner in CWJC No. 17727 of 2016 is before us in this intra-court appeal. By the impugned judgment the learned Writ Court has dismissed the Writ Application preferred by the petitioner against the order dated 09.07.2014 passed by the Nagar Executive Officer, Nagar Parishad, Sasaram.

2. It appears that the petitioner got aggrieved by the order dated 09.07.2014 passed by the Nagar Executive Officer, Nagar



Parishad, Sasaram, as contained in Annexure-3 to the Writ Application. A perusal of Annexure-3 to the Writ Application would show that the same has been passed in the light of the order of this Court dated 16.07.2013 passed in CWJC No. 13236 of 2012 (Sanjeev Gupta @ Chunilal Vs. State of Bihar & Ors.).

3. The allegation against the petitioner-appellant is that in the common street of Nagar Parishad, the petitioner had got constructed a platform (Chabutara) and had also constructed a Chhajja which were in the nature of encroachment. The concerned authorities conducted a local inspection with the help of Amin and, on receipt of the report of the Amin, it was found that this petitioner had encroached upon the common street. In these circumstances, the petitioner was directed to remove the encroachment failing which it was ordered to be removed by following the established procedure.

4. The learned Writ Court was informed that during pendency of the Writ Application the authorities had already demolished the platform as well as the Chhajja of the house and they have imposed costs for Rs. 25,000/- upon the petitioner for removal of the encroachment.

5. The learned Writ Court found that the petitioner has miserably failed to establish his case that it is a private lane as defined U/S 2(79) of the Bihar Municipal Act, 2007. Learned counsel



representing the petitioner-appellant has once again agitated the same issue but without impressing upon us as to how the views taken by the learned Writ Court may be held incorrect or bad in law.

6. We are of the considered opinion that the learned Writ Court has committed no illegality and the impugned judgment does not suffer from any infirmity warranting interference in appeal.

7. The appeal has no merit. It is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
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