

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5975 of 2015

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Shyam Narayan Ram S/O-Late Ram Gulam Ram, Resident of Moh- Chhoti Badalpura, P.O.- Khagaul, Distt- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Infrastructure Department, New Secretariat, Patna.
2. The Executive Officer, Patna Municipal Corporation, Khagaul, Patna.
3. The thana-in-charge, Khagaul thana, P.O.- Khagaul, Distt- Patna.
4. Kundan Swami @ Kundan Thakur S/O-Late Raj Narayan Thakur, Resident of Moh- Chhoti Badalpura, P.O.- Khagaul, P.S.- Khagaul, Distt- Patna.
5. Ganesh Thakur S/O- Late Haridwar Thakur, Resident of Moh- Chhoti Badalpura, P.O.- Khagaul, P.S.- Khagaul, Distt- Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Chandra Bhushan Verma, Advocate
For the Respondent/s : Smt. Geeta Kumari, GP-28

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 20-08-2018 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Khagaul Nagar Parishad.

2. The present writ petition has been filed by the petitioner for issuance of a direction to the respondents to demolish the entire construction of house of respondent nos. 4 and 5.

3. The case of the petitioner is that the respondent nos. 4 and 5 are constructing their house without obtaining sanction of their building plan from the Municipal authority.

4. Learned counsel for the petitioner submitted that though the petitioner has submitted a written compliant to the



respondent no.2 in respect of unauthorized construction being raised by respondent nos. 4 and 5, no action has been taken so far. According to him, the construction of the house is being made after encroaching the common *gali*.

5. A counter affidavit has been filed on behalf of the Executive Officer, Nagar Parishad, Khagaul wherein it has been stated that the petitioner has got land dispute with the respondent nos. 4 and 5. He has filed an application under Section 147 of the Code of Criminal Procedure before Executive Magistrate, Danapur vide Case No. 503(M) of 2006/ o6 of 2013 in which also he has claimed that there exists two feet wide *gali* in the west side of his house. In the said case, the Executive Magistrate directed the respondent no. 2 to enquire about the matter and submit an enquiry report pursuant to which respondent no.2 vide letter no. 501 dated 14.10.2006 submitted his enquiry report. In para 4 of the counter affidavit it has been stated that the building plan in respect of the construction of house of respondent nos. 4 and 5 has already been approved in the name of Sitawati Devi in accordance with the existing building bye laws.

6. Learned counsel for the respondent no.2 submitted that the respondent nos. 4 and 5 have not encroached upon anyone's land and they are making construction over their own land.



7. The petitioner has not filed any rejoinder to the counter affidavit. Having regard to the nature of the relief prayed for in the instant writ petition, in view of the assertions made in the counter affidavit on behalf of the Nagar Parishad, which have not been controverted by the petitioner, no mandamus, as prayed for by the petitioner, can be issued.

8. The application is without any merit. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Pradeep/SkSuman.

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