

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.15227 of 2010

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1. Smt.Smita Sinha W/O Sri Anil Kumar R/O Flat No.404-A, Vijay Complex, Rampur Main Road, Near R.C.Ram Clinic, Bazar Samiti, P.S.Bahadurpur, Distt-Patna
  2. Smt. Sandhya Singh W/O Sri D.P.Singh R/O Flat No.402a, Vijay Complex, Rampur Main Road, Near R.C.Ram Clinic Bazar Samiti, P.S.Bahadurpur, Distt-Patna
  3. Sri J.P.Lall S/O Late Ramdas Prasad R/O Flat No.405a, Vijay Complex, Rampur Main Road, Near R.C.Ram Clinic, Bazar Samiti, P.S. Bahadurpur, Distt-Patna
  4. Nawlesh Kumar Singh S/O Sri Suresh Prasad Singh R/O Flat No.305-B, Vijay Complex, Rampur Main Road, Near R.C.Ram Clinic, Bazar Samiti, P.S.Bahadurpur, Distt-Patna
  5. P.K.Agrawal S/O Late Raj Kumar Agrawal R/O Flat No.301-B, Vijay Complex, Rampur Main Road, Near R.C.Ram Clinic, Bazar Samiti, P.S.Bahadurpur, Distt-Patna
  6. Alok Kumar Singh S/O Late Dinesh Singh R/O Flat No.201-A, Vijay Complex, Rampur Main Road, Near R.C.Ram Clinic, Bazar Samiti, P.S.Bahadurpur, Distt-Patna

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Urban Development And Housing Department Government Of Bihar, Patna
3. The Patna Municipal Corporation , Patna Through Its Chairman Patna
4. The District Magistrate Patna
5. Shri Vijay Kumar R/O Vidhya Apartment , 4th Floor, Chitragupta Nagar, Kankarbagh, Patna, Managing Partner Of Maa Constructions , Having Its Office At B.P.Complex, Near Om Vihar, Old Petrol Pump, Kadamkuan, Patna

.... .... Respondent/s

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#### Appearance :

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|----------------------|---|--------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Ashok Kumar Choudhary, Adv.<br>Mr. Anil Kumar Tiwary, Adv.<br>Mr. Akshansh Ankit, Adv. |
| For the State        | : | Mr. Nadim Seraj, GP-5<br>Ms Shalini, A.C. to GP-5                                          |
| For the Corporation  | : | Mr. Prasoon Sinha, Adv.                                                                    |

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 29-10-2018**

Heard learned counsel for the petitioners, learned  
counsel for the State, learned counsel for the respondent no.5 and



learned counsel for the Patna Municipal Corporation.

2. The prayers of the petitioners in the instant writ petition are as under :-

- i. To quash and set aside the 1<sup>st</sup> and 2<sup>nd</sup> revision of map concerning the apartment Vijay Complex, that is, P/Saidpur/PRN/5-859 of 1999 as sanctioned on 25.03.03 by the erstwhile PRDA and 12.11.08 by the Patna Municipal Corporation, respectively, as through the said revision the builder respondent has sought to alter the said apartment on his whims, prejudicially affecting the right, title and interest of the petitioners.
- ii. To direct the respondents to ensure the construction of the apartment Vijay Complex in accordance with the initially sanctioned map and to further ensure that the construction and its amenities are in consonance with the requirements as provided for under the Apartment Ownership Act, Municipal Corporation Act and the Modified Building Bye-Laws.
- iii. To direct the Patna Municipal Corporation Officials to issue the 'Completion Certificate' immediately and to stop any further deviation in the construction



as provided by the initially sanctioned map of the concerned apartment.

- iv. To direct the concerned respondents to ensure from the builders/developers that the construction of the said apartment is restored to its original position as it would have been in accordance with the initially sanctioned map and as per the agreement entered into by the builder and the owners including the petitioners.
- v. To further hold and declare that the right, title and interest over the said apartment now vests in the petitioners and other owners of the apartment and the builder-respondent and the Patna Municipal Corporation is not allowed to interfere in any manner unless it is at the instance of the owners of the apartment.
- vi. To all other reliefs that may be consequential to those as above and which the petitioners may be entitled to claim in the facts and circumstances of the present case.

3. A preliminary objection regarding maintainability of the writ petition, in view of the availability of an equally efficacious



statutory alternative remedy has been raised by the respondents.

4. At this stage, learned counsel for the petitioners submitted that the writ petition may be disposed of with liberty to the petitioners to raise the issue before the competent authority under the provisions of Section 32(1)(c) and (e) of the Bihar Apartment Ownership Act, 2006 (for short 'the Act').

5. Regard being had to the submission made above, the writ petition is disposed of with liberty to the petitioners to raise the issues raised in the present writ petition before the competent authority under the Act and in case of filing of such petition, the competent authority shall be obliged to look into the grievances of the petitioners and dispose of the same by a reasoned order as early as possible, preferably within four months from the date of filing of such petition.

**(Ashwani Kumar Singh, J)**

Pradeep/-

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