

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8256 of 2017

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1. Bijay Prasad Gupta, Son of Late Harilal Prasad.
 2. Ramautar Prasad, Son of Late Kuldip Singh.
 3. Chanchala Devi, Wife of Arun Kumar Gupta.
 4. Munnilal Son of Late Sardar Sao.
 5. Karuna Devi, Wfe of Late Mathura Rajak.
 6. Subodh Kumar Choudhary, S/o Lalit Mohan Choudhary, All are resident of Mohalla- Ramna Road, Near Jain Mandir, Ghat, Ward No. 22, Police Station- Civil Lines, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development Department Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Circle Officer, Chandauti, Gaya.
4. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Adv. Mr. Manish Kumar No-2, Adv.
For the Respondent No.4	:	Mr. P. N. Shahi, Sr. Adv. Mr. Rabindra Kumar Priyadarshi, Adv.
For the State	:	Mr. Arun Kumar, A.C. to GP-1
For the Intervenors	:	Mr. S.A. Alam, Adv. Ms Anjum Praveen, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 05-03-2018

This writ petition has been filed by the petitioners for (i) setting aside the order/notice as contained in Memo No. 1282 dated 31.05.2017 passed by the respondent Municipal Commissioner, Gaya whereby he has directed to remove the encroachments failing which the same shall be removed; (ii) for a direction upon the respondent authorities not to demolish their residential house situated at Mohalla



Ramna, near Jain Mandir, Mahadeo Ghat, Ward No.22, P.S. – Civil Lines in the district of Gaya; (iii) for preventing the respondents to take any coercive action against the petitioners.

2. From perusal of the impugned order, it would be manifest that the Municipal Commissioner, Gaya Municipal Corporation has clearly held that due to encroachment made by the petitioners and others one of the oldest drain, namely, Bottam Nala was blocked due to which there is huge problem of water logging in different parts of the city. The constructions were made without there being any sanctioned plan.

3. It is submitted by Mr. Sandeep Kumar, learned counsel for the petitioners that after the impugned order was passed, part of alleged unauthorized construction has also been removed by the municipal authorities.

4. In the opinion of this Court, this writ petition under extraordinary original jurisdiction would not be maintainable in view of the provision of appeal specified in Section 323 of the Bihar Municipal Act, 2007.

5. The writ petition is accordingly disposed of with liberty to the petitioners to challenge the order passed by the Municipal Commissioner by way of filing an appeal in accordance with law. In case an appeal against the impugned order is preferred within two



weeks from today, limitation, if any, shall stand condoned and the appellate Tribunal shall be required to hear and dispose of the appeal on merit.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.03.2018
Transmission Date	

