

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12515 of 2017

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Baptist Union Church through its Priest Incharge and Chairman, Rev. Moses Victor Thomas, S/o Late Victor Thomas R/o Moh.-Bakarganj, Patna, P.S.-Pirbahore, District - Patna.

.... Petitioner

Versus

1. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok Complex, Patna.
2. M/s Utkarsh Sfatik Ltd., a company registered under the Companies Act having its registered office at Ecospace Business Park, Block - 4B, 6th Floor, premises no. IIF/11, Action Area II, New Town, Kolkata through its Director Saday Krishna Kanoria S/o Sri Binod Krishna Kanoria R/o Marwari Awas Grih Compound, Frazer Road, Patna, P.S.- Kotwali, District - Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. J.S. Arora, Sr. Advocate
Mr. Sanjay Kumar, Advocate
For the Respondent-PMC : Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-02-2018

This writ petition has been filed by the petitioner for issuance of a direction upon the official respondents to restrain the private respondents from making any construction upon the land as mentioned in Plan Case No.CKA/PMC/Mauja-ADRA/PCN/SB+G-17/2010 which was sanctioned by the certificate



Architect for construction of multi-storied building over the land in question for which the litigations are pending before Municipal Building Tribunal, Bihar, Patna in Appeal No.5N/2016 till the pendency of the said appeal. It has further prayed for directing the official respondents to hold an inquiry in the facts and circumstances of the case that how and in what manner the respondent no.3 purchased the land and thereafter, obtained the sanctioned plan for construction of multi stories building when the RFA No.232 of 2015 is pending for the land in question in Delhi High Court and Title Suit No.562 of 2012 is pending in the court of Sub Judge-II, Patna. It has further prayed for directing the respondent no.3 not to construct the building as per the re-sanctioned plan map on the disputed land unless and until an un-authoritative pronouncement would be made by the competent court of law including the Bihar Building Municipal Tribunal in Appeal No.5N/2016.

2. It is an admitted fact that against the order dated 09.03.2016 passed by the Commissioner, Patna Municipal Corporation reviving the sanctioned plan of the respondent no.3, the petitioner has filed a statutory appeal before the Municipal Building Tribunal, Patna (for short 'the tribunal'). The writ petition was filed on the ground that during pendency of the appeal before the tribunal, the Chairman of the tribunal was transferred and there was no



likelihood that the tribunal would become functional in future.

3. By way of supplementary affidavit filed on behalf of the respondent no.3, it has been brought to the notice of the Court that vide notification No.1302 dated 25.01.2018, the General Administration Department, Government of Bihar has issued notification whereby Shri Shivanand Mishra, the Additional District and Sessions Judge, Bhagalpur has been appointed as Chairman of the Municipal Building Tribunal-I and II, Patna.

4. It is admitted by the learned counsel for the petitioner that pursuant to the aforesaid appointment, the tribunal has become functional.

5. In the opinion of this Court, since an appeal is already pending before the tribunal, which has become functional, the appeal is required to be heard and disposed of first.

6. In that view of the matter, the writ petition is disposed of with a request to the Chairman of the tribunal to dispose of the appeal after giving an opportunity of hearing to all the parties in accordance with law.

7. It is expected that the Patna Municipal Corporation shall transmit all the required documents as directed by the tribunal earlier in the statutory appeal vide its order dated 21.10.2016, which was reiterated on subsequent dates.



8. As the matter is finally being disposed of by the Court, the interim order dated 13.10.2017 stands vacated.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2018
Transmission Date	NA

