

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.627 of 2019

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G. V. Mall Owners Association, a Company registered under the provisions of Companies Act, 2013 having its office at C/o Rajesh Chandra Jain, 403-R.P. Tower, near JCT Building, Frazer Road, Patna, through its Secretary Rajesh Chandra Jain, aged about 44 years, male, Son of Late Prem Chandra Jain, Resident of 403- R.P. Tower, Near JCT Building, Frazer Road, P.S. Kotwali, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Main Secretariat, Patna.
2. The Principle Secretary, Department of Urban Development, Government of Bihar, Main Secretariat, Patna
3. The Patna Municipal Corporation, Constituted under Patna Municipal Corporation Act, as it then was, having its office at Mauryalok Complex, New Dak Bunglow Road, Patna through its Municipal Commissioner.
4. The Municipal Commissioner, Patna Municipal Corporation, Patna (being the competent authority under the Apartment Ownership Act, 2006, having at address at Mauryalok Complex, New Dak Bunglow Road, Patna.
5. Premshree Bhartiya (JV), having its Office at Lower Ground floor, G.V. Mall, West Boring Canal Road, Patna through one of its partner Sri Pravin Kumar.
6. Sri Praveen Kumar, son of Sri Srinarayan Azad, Resident of A/38, Indirapuri Colony, Raza Bazar, P.S. Shastrinagar, Town and District- Patna, the Partner / Director of Premshree Bhartiya Construction (JV), having its Office at Lower Ground Floor, G. V. Mall, West Boring Canal Road, Purporting to be the Incharge of the then G.V. Mall Management Committee.
7. Sri Rajesh Kumar Sureka, S/o Sri Hari Prasad Sureka, resident of F-2/C, Pushp Vihar Apartment, Exhibition Road, P.S. Gandhi Maidan, Town and District Patna, being one of Partner/ Director of M/s. Premshree Bhartiya (JV).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mohit Agrawal, Adv.
For the PMC	:	Mr. Prasoon Sinha, Adv.
For the Respondent no.7 :		Mr. Arjun Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 11-03-2019 This writ application has been preferred seeking a

mandamus directing the respondents particularly the Municipal



Commissioner to discharge his statutory duty vested in him under Section 32(e) and (i) of the Bihar Apartment Ownership Act, 2006 for redressal of the grievances of the petitioner. The allegation of the petitioner was that despite the complaint submitted, the Municipal Commissioner has failed to take action and was sitting tight over the matter since 25.07.2018.

On the last date, when the matter was taken up for consideration, the case was adjourned to enable Mr. Prasoon Sinha, learned counsel representing the Patna Municipal Corporation to seek instruction from the Municipal Commissioner and to file a counter affidavit.

A counter affidavit has been filed on behalf of the respondent nos.3 and 4 who are the authorities of the Municipal Corporation. It is stated in paragraph 6 of the counter affidavit that the complaint case no.01 of 2019 has been registered upon complaint of the petitioner and accordingly notices have been issued vide letter no.2943 dated 01.03.2019 issued under the signature of Municipal Commissioner, Patna Municipal Corporation, Patna to the respondent nos.6 and 7 calling upon them to show cause as to why action may not be taken against them under the provisions of the Bihar Apartment Ownership Act, 2006. The next date of hearing is fixed on 16.03.2019.



Copies of the letters have also been brought on record with the counter affidavit.

In the aforesaid view of the matter, Mr. Prasoon Sinha, learned counsel representing the Patna Municipal Corporation submits that now the writ application has become infructuous as the statutory authority has already proceeded with action and will decide the matter in accordance with law.

In the given facts and circumstances of the case it appears to this Court that the writ application has become infructuous. It cannot proceed now as the statutory authority is in seisin of the matter and is proceeding with the issue in accordance with law. The Court will expect that the statutory authority i.e. the Municipal Commissioner, Patna Municipal Corporation shall conclude the proceeding latest within a period of four months from the date of receipt/production of a copy of this order.

The writ application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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