

Letters Patent Appeal No.1399 of 2018

In

Civil Writ Jurisdiction Case No.6961 of 2015

Dr. Kamal Deo Sharma, Son of Late Saryug Sharma, resident of Village-
Bajinathpur, Police Station- Saurbazar, District- Saharsa.

... .. Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Rural Development Department, Bihar, Patna.
2. The Zila Parishad, Saharsa through the Chief Executive Officer, Zila Parishad, Saharsa.
3. The Chief Executive Officer, Zila Parishad, Saharsa-cum-Deputy Development Commissionner, Saharsa.
4. The Sub-Divisional Officer, Sadar, Saharsa.
5. Rajniti Paswan, Executive Magistrate, Sadar Saharsa.
6. The Station House Officer, Sadar Police Station, Saharsa.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Syed Firoz Raza, Advocate
For the Respondent/s : Mr. Anjani Kumar, A.A.G.-4
Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 05-03-2019 Heard Shri Syed Firoz Raza, learned counsel for the
appellant and Shri Anjani Kumar, learned Additional Advocate
General No.4 for the State and also representing the Zila
Parishad, Saharsa.

The appellant was granted a licence by way of an allotment of space for a period of 11 months to enable him to run his Ayurvedic clinic in a temporary hutment. Instead of that,



the appellant appears to have raised a brick-wall and therefore he was put to notice immediately after the allotment as to why the allotment be not cancelled. A reply was given by the appellant to the show cause notice, which was rejected and the premises was directed to be demolished. It is against the same that the writ petition giving rise to the present appeal was filed in the year 2015. The petition has been dismissed as the learned counsel for the appellant failed to appear before the learned single Judge.

Learned counsel for the appellant submits that the raising of the brick-wall was only as a temporary measure as the roof was covered by asbestos sheets and therefore the appellant never intended to raise any *pucca* construction.

The contention therefore is, as a matter of fact, that there was no violation or breach on the part of the appellant and therefore the appellant should be allowed to retain the said allotted area.

We have considered the submissions raised and in view of the fact as on record, the raising of a brick-wall does not appear to have been stipulated in the allotment which was made to the appellant. In such circumstances, the direction for demolition does not appear to be arbitrary or otherwise against



the terms and conditions of allotment.

In the event, the appellant removes the said *pucca* structure, it will be open to the Zila Parishad to consider his request for fresh allotment on such terms and conditions as may be applicable.

The appeal stands disposed of.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM/Saif

U			
---	--	--	--

