

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.561 of 2019

In

Civil Writ Jurisdiction Case No.4646 of 2015

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Reyaz Ahmad Aatish, son of late Nesar Ahmad, resident of A/401, Ali Enclave, Raza Bazar, P.S.-Shastri Nagar District- Patna, Presently Secretary of Al-Madad Welfare Society, having its Headquarter at Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Gupteshwar Pandey, Director General of Police, Bihar, Patna
3. Anupam Kumar Suman, Commissioner, Patna Municipal Corporation, Patna-800001

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate

For the Opposite Party/s : Mr. Prabhat Kumar Verma (AAG-3)

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-09-2019

Heard the learned counsel for the parties.

2. This contempt application has been preferred seeking an action alleging disobedience of the direction



dated 8th of April, 2016, keeping in view the general directions issued in the case of ***Sanjay Jha Vs. The State of Bihar and Others, 2016(1) PLJR 248.***

3. The penultimate paragraph of the order of the Division Bench dated 8th of April, 2016 indicates that the respondent No. 5, namely, the Municipal Commissioner, Patna, shall act, in the present matter, in accordance with law, keeping in view the observations made and the directions given in the case of Sanjay Jha (*supra*).

4. Having perused the same, we find that the action has to be taken in a proceeding under Section 133 of the Cr.P.C.

5. The learned counsel for the applicant contends that a Police report dated 23rd of February, 2016 has already been tendered in this regard, but no action has been taken till date.

6. The allegation is about removal of encroachments on Bhootnath Main Road, Kankarbagh,



Patna, wherein it is alleged that an 80 ft. wide road has been encroached upon and the width of the road has been reduced to 25-30 ft.

7. This being a matter of public nuisance in respect of encroachment on a public road, it would be appropriate that the applicant approaches the appropriate forum in view of the directions issued by the Division Bench in the case of Sanjay Jha (*supra*) and in the event any such proceedings are instituted as indicated therein, the concerned Magistrate shall proceed to take appropriate action after putting to notice any such encroachers or the concerned authorities may take such action for removal of encroachments as per the Bihar Public Land Encroachment Act read with the Bihar Municipal Act, 2007 on any such representation made before it.

8. With the aforesaid observations, the contempt application is consigned to records with the liberty aforesaid to the applicant.



9. A copy of this order shall be brought to the notice of the District Magistrate, Patna as well as the Municipal Commissioner, Patna for appropriate action.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

Shageer/Praveen

AFR/NAFR	NAFR
CAV DATE	N/A
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