

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9864 of 2017

Tarun Kumar son of Late Jagdish Prasad, resident of Nutan Vihar Apartment, Doctor's Colony Road, P.S. Kankarbagh, District- Patna, Managing Partner S.R.M. Builders, having its office at Nepali Kothi Boring Road, P.S.- Sirkrishnapuri, District- Patna.

... .. Petitioner/s

Versus

1. Patna Municipal Corporation, Maurya Lok Complex, P.S.-Kotwali, Patna through Municipal Commissioner.
2. Municipal Commissioner, Patna Municipal Corporation, Maurya Lok Complex, P.S. Kotwali, Patna.
3. Shailesh Kumar Son of Late Bangali Singh, resident of 'Sumitra Sadan', West Boring Canal Road, P.S.- Srikrishnapuri, District- Patna, Partner of S.R.M. Builders, having its office at Boring Canal Road, P.S.- Srikrishnapuri, District- Patna.
4. Rajesh Kumar,
5. Mukesh Kumar,
Both sons of Late Bangali Singh, resident of 'Sumitra Sadan', West Boring Canal Road, P.S.- Srikrishnapuri, District- Patna. Partners of S.R.M. Builders, having its office at Boring Canal Road, P.S.- Sirkrishnapuri, District- Patna.
6. S.R.M. Builders, Nepali Kothi, near Boring Road Chauraha, P.S.- Srikrishnapuri, District- Patna, through its Managing Partner Sri Tarun Kumar
7. Suryanestbuild Limited, Signature Building, Beside Hira Sweets Lane, Boring Canal Road, P.S. - Srikrishnapuri, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Singh, Sr. Advocate
	:	Mr. Krishna Chandra, Advocate
	:	Mr. Ajay, Advocate
For the Respondent/s	:	Mr. Prasoon Sinha, Advocate
For Respondent No.3	:	Mr. Aditya Narain Singh, Advocate
For Respondent Nos.4 & 5	:	Mr. Ranjay Kumar Singh, Advocate
For Respondent No.6	:	Mr. Pratik Kumar Sinha, Advocate
For Respondent No.7	:	Mr. Rakesh Kumar Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 03-04-2019

This application under Article 227 of the Constitution of India has been filed for quashing the order dated 31.05.2017 passed in Appeal Case No.44(N) of 2015 by the Municipal



Building Tribunal, Patna (for short 'Tribunal') whereby and whereunder the appeal preferred by the respondent 3rd set against the order dated 24.11.2015 passed by the Municipal Commissioner, Patna Municipal Corporation (for short 'PMC') in Vigilance Case No.30B of 2015 has been allowed.

2. Mr. Jitendra Singh, learned Senior Advocate appearing for the petitioner submitted that the appeal filed by the land owner before the Tribunal against the order dated 24.11.2015 passed by the Municipal Commissioner was not maintainable. He contended that the Municipal Commissioner had passed the said order in exercise of powers under the Bihar Municipal Act, 2007 (for short the 'Act') and the building bye laws. The said order was based on facts not in dispute. Thus, there was no occasion for the Tribunal to have set it aside. The Municipal Commissioner had the jurisdiction and power to condone and compound the deviations. He contended that finding of the Municipal Commissioner in his order dated 24.11.2015 i.e. ongoing construction of ramp was illegal, without conceding and for the sake of argument cannot be stretched by the Tribunal to hold that the entire construction made by the petitioner was illegal on the claim that it was made in violation of the order of stay issued vide letter dated 30.03.2015 and in turn for the same to be a ground to set aside the order dated



24.11.2015 of the Municipal Commissioner. He urged that the Tribunal has erred in holding that the order of the Municipal Commissioner was bad as it did not return a finding on the quality of material used by the petitioner is not correct and not sustainable. He pleaded that after the map of 12 katha of land was sanctioned on 17.02.2012 Surya Nest Build Ltd. as managing partner was to develop 9 katha under the deed of reconstituted partnership dated 12.07.2013 and Surya Nest Build Ltd. as developer was to develop the 3 katha of land under development agreement dated 12.07.2013. Thus, the validity of a map can not be questioned on the basis of development agreement. Further there was no illegality in the map of 12 katha of land having been sanctioned and thus there was never an occasion for the Municipal Commissioner to have exercised his powers under Section 336 of the Act to cancel the same and the finding to the contrary by the Tribunal is bad in law.

3. Per contra, Mr Aditya Narain Singh, learned counsel appearing on behalf of respondent no.3 has submitted that the petitioner has filed the present writ petition suppressing the material facts. He contended that respondent no.3 has executed development agreement dated 12.07.2013 believing that the said agreement is in favour of the firm, namely, S.R.M. Builders. Later



on, when a dispute arose for use of low quality material then it was detected in respect of 3 katha of land a development agreement had been executed in favour of M/s Surya Nest Build Ltd. and not in favour of M/s S.R.M. Builders, which led to filing of Title suit no. 148 of 2015 by respondent nos. 4 and 5 and M/s S.R.M. Builders for dissolution of partnership and other consequential relief against the petitioner. He contended that neither respondent no.3 nor respondent nos.4 and 5 were satisfied with the work and quality of the construction by the petitioner. When the dispute arose between the parties the petitioner in connivance with the officials respondents proceeded with the construction in utter haste violating the building laws and direction given by letter dated 27.6.2013. He pleaded that the contention of the petitioner that there was no order of stay of construction is incorrect and misleading. He has urged that crack in roof was detected and on complaint inspection was done by a team of NIT on 19.12.2014, who submitted report on 18.2.2015 from which it would be evident that crack appeared at the top to the bottom in second floor, which was visual. He contended that even otherwise there was no error in the order passed by the Tribunal.



4. Similar arguments have been advanced by Mr. Ranjay Kumar Singh learned counsel appearing for the respondent nos. 4 and 5.

5. Referring to the salient events will facilitate and understanding of the controversy.

6. The subject matter of the case relates to multistoried commercial building situated at Boring Road over plot nos. 50 and 51 recorded under khata no. 512 and 513 in the district of Patna.

7. It is an admitted case of the parties that 12 katha of land in question was owned by one Bangali Singh. He has three sons, namely, Shailesh Kumar (respondent no.3), Rajesh Kumar (respondent no.4) and Mukesh Kumar (respondent no.5). Out of 12 katha, he had gifted three katha as gift to his son Shailesh Kumar by gift deed registered on 23.9.2009. His three sons formed a partnership firm on 29.1.2011 with respondent no.3 as its managing partner and the object of the firm was to develop the land. Bangali Singh entered into a registered development agreement with M/s S.R.M. Builders. Shailesh Kumar (respondent no.3) clubbing the above nine katha of land which was to be developed by the said firm and the above three katha of land which belonged to him applied for sanction of map for the entire 12



katha. The building plan for construction of multistoreyed commercial building over the plot in question was sanctioned on 17.12.2012

8. Thereafter, M/s S.R.M. Builders took up construction of multi storied commercial building over total 12 katha of land. It was respondent no.3, who had submitted application for approval of plan for construction of multistoried building over the plot in question. He was involved with the project in two capacities, one as builder developer being managing partner of M/s S.R.M. Builders of 9 katha of land and the other as owner of adjoining 3 katha of land. Subsequently, Surya Nest Build Ltd., a company incorporated under the provision of the Companies Act, 1956 through its director, the petitioner, was inducted as partner of M/s S.R.M. Builders, which was registered on 12.7.2013. The petitioner was made managing partner of the said firm which, as per the above agreement dated 5.11.2011 with Bangali Singh, was to develop 9 katha of land as per the above map. On the same a development agreement was entered into between Surya Nest Build Ltd. and respondent no.3 to develop 3 katha land.

9. Thus, from the above, it would be manifest that after the map of 12 katha was sanctioned on 12.7.2013 Surya Nest



Build was inducted as managing partner to develop 9 katha under the reconstituted partnership deed dated 12.7.2013 and Surya Nest Build as developer had to develop 3 katha of land under the development agreement dated 12.7.2013. Thereafter, the construction was started over entire 12 katha of land as per already approved plan.

10. In the meantime, in the case of Narendra Mishra vs. The State of Bihar & others in CWJC no. 8152 of 2013, a direction was issued by this court to enquire all the ongoing projects. All the land owners, builders and developers were noticed vide letter no. 1369 dated 27.6.2013. The land owner Bangali Singh was also noticed. He was directed to submit relevant papers by 10.7.2013.

11. The petitioner asserts that notices were issued to 606 persons under the direction of Municipal Commissioner, PMC, Patna. The name of land holder Bangali Singh was at serial no. 515. Out of these 606 persons to whom notices were issued construction work of 353 buildings, which was going on over the plot having abutting road of less than 20 feet were ordered to stop construction.

12. Out of 606 notices 314 submitted the desired documents. The petitioner was one of them. Subsequently, almost



all the buildings were measured. On one ground or another, they were ordered to stop the construction where-ever deficiency was found.

13. The building, in question, was also inspected and measured by the team of Municipal Corporation including the team of technical person in presence of the concerned parties. The inspecting team submitted its report on 31.07.2014 stating that no deviation was found from the sanctioned plan in case of the petitioner.

14. While construction work was going on a crack developed at 3rd floor, whereafter the respondent no.3 sent a legal notice to the petitioner on 08.01.2015 alleging therein that low quality material was being used in construction of building. The petitioner submitted his reply on 24.01.2015 denying the allegation.

15. Thereafter, respondent no.3 made a complaint before the Commissioner, PMC on 21.03.2015 and again on 26.03.2015 alleging therein that the developer is using low quality material in constructing the building over his plot. A prayer was also made to stop construction and to take necessary action.

16. Immediately, thereafter, the vigilance officer of the PMC issued letter dated 30.03.2015 whereby the petitioner was



directed to stop the construction work forthwith and to establish that the construction is free from deviation and the material is not of inferior quality.

17. The petitioner submitted his reply on 07.04.2015 stating therein that the required paper was duly submitted and the Municipal Corporation had never directed to stop the construction work at the site in question. The petitioner contended that respondent 2nd and 3rd set had filed successive complaint before the Commissioner, PMC. They had filed Title Suit No.148 of 2015 for restraining Surya Nest Build Ltd. from doing any action against the interest of reputation of partnership firm.

18. An application under Order 39 Rule 1 and 2 was also filed on 08.04.2015 in the aforesaid title suit for grant of injunction by restraining Surya Nest Build Ltd. from making further construction of the building in question.

19. The respondent 2nd and 3rd set also filed a writ petition before this court vide CWJC No.6124 of 2015 for stopping the construction work of the building in question.

20. The aforesaid CWJC No.6124 of 2015 was disposed of vide order dated 04.06.2015 with liberty to the petitioner to pursue his grievance before the respondents to ensure



compliance of their order. The said order dated 04.06.2015 reads as under:-

"The present writ petition has been filed by the petitioners for stopping the construction work of multi storied building upon survey plot no.50 and 51 and Khata No.512 and 513 situated at Mauza Lodipur presently known as Mohalla- West Boring Road, P.S.- Srikrishnapuri, District- Patna.

Learned counsel for the petitioners submits that the respondents have already acted but they have not taken concrete steps in this regard.

It would be for the petitioners to pursue the respondents to ensure compliance of their order."

21. On the very next date i.e. on 05.06.2015, the learned Sub-Judge-IV, Patna having considered the show cause and its reply filed by the parties and after hearing respective parties rejected the application filed by respondent 2nd and 3rd set under Order 39 Rule 1 and 2 in Title Suit No.148 of 2015 observing as under:-

"Heard both the parties and also perused the case record. On the basis of reports viz. Annexure-3 series and 4 series of the plaintiffs and Annexure-B and C/1 of the



defendants 1st set it cannot be said that the defendant 1st set have been using any low quality material in construction of the building. Further considering the fact that the plaintiff no.2 and 3 along with defendant no.3 have combinedly only 30% share in the firm S.R.M. Builders whereas the defendant 1st set have 70% share and it is also admitted fact that after reconstitution of partnership deed dated 11.07.2013 the plaintiff no.2 and 3 have not invested any amount in the project whereas the defendant 1st set have made huge investment in the construction of the said building and the structural work of the building is at the finishing stage, under such circumstances it is clear that the plaintiffs have not good prima facie case nor the balance of convenience at present lies in their favour nor the plaintiffs is going to suffer irreparable loss if injunction is refused, under the circumstance the injunction petition of the plaintiff dated 8.4.2015 hereby rejected."

22. The respondent 2nd and 3rd set preferred Misc. Appeal No.36 of 2015 against the aforesaid order dated 05.06.2015 passed by the learned Sub.Judge-IV, Patna. Vide Misc. Appeal No.36 of 2015, on 24.08.2015, the learned District Judge,



Patna passed interim order of status quo. The operative part of the order reads as under:-

"Considering the aforesaid facts and circumstances, the operation of the impugned order shall remain stayed and the Defendant 1st Set shall maintain status quo regarding the activity done in the name of appellant firm M/s S.R.M. Builders till filing of show cause and hearing on the point of ad interim stay".

23. The petitioner challenged the said order before this court vide CWJC No.15513 of 2015. In the said application filed under Article 227 of the Constitution, while issuing notice to the respondents vide interim order dated 15.10.2015, the appellate order dated 24.08.2015 was stayed. Subsequently, vide order dated 02.02.2016 the application was allowed and the impugned order dated 24.08.2015 passed by the appellate court was set aside. The operative part of the order dated 02.02.2016 reads as under:-

"Perused the order passed by the Court below dated 24.08.2015. From the order itself, it appears that the appeal was barred by law of limitation and limitation application was filed. It further appears that no notice was issued in limitation matter and it was condoned. It further appears that the lower appellate Court at the time of admission of the appeal itself stayed the



operation of the impugned order passed by the trial court whereby the injunction application was rejected and thereafter granted status quo order and thereby indirectly the lower appellate Court granted injunction in favour of the appellant. In my opinion, this order could have been passed by the lower appellate Court at the time of hearing of the Misc. Appeal itself. In other words, it can very well be said that at the time of admission of the Misc. Appeal itself, the lower appellate Court has allowed the appeal after condoning the delay and granted injunction without hearing the respondent. Therefore, the lower appellate Court has exercised the jurisdiction in the manner not permitted by law. The lower appellate Court has not considered the ground of the trial court whereby the injunction application was rejected recording a finding that the plaintiffs have got no prima facie case. It is settled principle of law that the ex-parte injunction order cannot be granted without considering the facts and without considering as to whether if it is granted it will cause any prejudice to the other side or not. In the present case, admittedly, the injunction application was rejected by the Court below wherein there is finding that the plaintiff has no prima facie case. Against that appeal was filed. As stated above, in the impugned order, nothing is there to say that on what ground the



plaintiffs appellants were entitled for at least interim injunction. Thus, this application under Article 227 is allowed. The impugned order so far as it relates to the stay of operation of the trial Court granting of status quo regarding the activity done in the name of the appellant is hereby set aside."

24. While the aforesaid development took place a proceeding before the Municipal Commissioner continued. A case bearing No.30B of 2015 was registered against the building in question in which notices were issued. On 11.08.2015, the petitioner being managing partner of M/s SRM Builders filed reply denying all the allegations and prayed that order to stop the construction be removed so that finishing work may be completed. A prayer was also made by the petitioner to allow to submit revised map so that minor deviations be condoned and compounded. The Municipal Commissioner, PMC passed final order on 24.11.2015 and imposed penalty of Rs. 5,74,050/- which is five times of condonation and compounding fee of Rs.95,675/-. The petitioner deposited the penalty vide demand draft dated 27.11.2015 on 27.11.2015 itself.

25. Being aggrieved by the order passed by the Municipal Commissioner on 24.11.2015, the respondent 3rd set



preferred an appeal bearing Appeal Case No.44(N) of 2015 before the Tribunal and prayed for setting aside the impugned order by which condonation and compounding fee was directed to be paid.

26. The respondent no.3 preferred a writ petition before this Court vide CWJC No.3505 of 2015 praying therein to direct the municipal authority to restrain M/s Surya Nest Build Ltd. from any construction over the plot in question and to maintain status quo ante with effect from 07.01.2016 during pendency of Appeal No. 44(N) of 2015 before the Tribunal. The said writ petition was dismissed as withdrawn vide order dated 25.02.2016 which reads as under:-

"Although this matter was disposed of yesterday i.e 24.02.2016 vide order passed in open Court in presence of the counsel for the parties but subsequently Mr. Amit Srivastava, learned counsel appearing for the petitioner sought permission to withdraw this writ petition. It is in these circumstances that this matter has been listed today under the heading 'To Be Mentioned' when the prayer is being reiterated with no objection being raised either by the counsel for the State or the Corporation or the private respondents.

As prayed this writ petitioner is dismissed as withdrawn"



27. The Tribunal set aside the order passed by the Municipal Commissioner, PMC dated 24.11.2015 by majority opinion. However, one of the Members of the Tribunal differed with the majority opinion and passed a separate order holding therein that the appeal is fit to be dismissed.

28. The petitioner has pleaded that the order dated 24.11.2015 of the Municipal Commissioner passed in Vigilance Case No.30B of 2015 was in exercise of his powers under the Act and building bye laws and had been exercised in accordance thereof based on facts not in dispute and, thus, there was no occasion for the Tribunal to have set it aside.

29. Section 317 of the Act provides that if the building is in contravention of breach of the building bye laws or other parameter under this Act then the Municipal Commissioner shall immediately stop construction and take action against the builder, owner etc. The first proviso to this section provides that if the building has been constructed or is being constructed after sanctioning of plan but is found to have deviated from the plan though within the permissible deviation then he shall not order for demolition but would levy fine or penalty as prescribed under the Act, Rules, Regulation or bye laws. Thus, Section 317 provides for positive mandate not to order for demolition when deviation is



within the permissible limit under the bye laws but only to impose penalty and fine.

30. Clause 76(1) of the building bye laws prohibits compounding of any deviation if the same is on the government land or on land belonging to the owner or where FAR of height has been exceeded or front set back has been reduced from those prescribed under the bye laws or where development is within the prohibited limit of ancient/archaeological/monuments or where development interfere with the natural drainage or where development is over earmarked/approved parking area or where road or drain has been encroached or where number of floors has been increased from the permissible limit/sanctioned map.

31. Clause 76(3) of the building bye laws provides that the Municipal Commissioner may compound any offence either before or after institution of the proceedings under the Act where development has been undertaken in deviation of the approved map but within the frame work of the use restriction and provisions, norms and stipulations under the bye laws.

32. Clause 76(3)(C) of the building bye laws empowers the Municipal Commissioner to compound further deviations beyond permissible limit under the bye laws upto 10%



in respect of rear and side setback; 5% in respect of FAR; and 5% in respect of height with a maximum limit of 0.90 meters.

33. It would be manifest from the order dated 24.11.2015 passed by the Municipal Commissioner in the vigilance case that deviations were made within the permissible limits under the building bye laws as mentioned in the inspection report dated 13.05.2015. Since the deviations were within the permissible limits as prescribed under the bye laws and did not fall within one of the prohibitions imposed on compounding under Clause 76(1) of the bye laws, no illegality can be found with the order dated 24.11.2015 of the Municipal Commissioner passed in Vigilance Case No.30B of 2015 whereby he had condoned the deviations by imposing condonation fee and the penalty mandated under Section 317 of the Act.

34. It would be manifest to note that the respondent nos.3, 4 and 5 have filed their respective counter affidavits in the present writ petition. It is not the case of the aforesaid respondents in their respective counter affidavits that either in the vigilance case or in the appeal before the Tribunal deviation found by the inspection team of the Corporation were not within the prescribed category or permissible limit or it falls



under the prohibited category. Hence, the Municipal Commissioner could not have ordered for compounding.

35. Since the Municipal Commissioner has jurisdiction and powers to condone or compound the deviation and he had exercised his jurisdiction on the basis of the facts which were not in dispute, the decision dated 24.11.2015 of the Municipal Commissioner to condone and compound the deviations could not have been faulted with by the Tribunal.

36. In this regard, it would be apposite to reiterate that the Municipal Commissioner had condoned and compounded the deviations vide impugned order dated 24.11.2015 in the building with imposition of compounding fee of Rs.95,675/- and thereafter imposed penalty thereon five times on the said amount imposed making a total amount of Rs. 478375/- to be paid by the builder petitioner.

37. I further find that the finding of the Tribunal in the impugned order dated 31.05.2017 that by letter dated 27.06.2013 stay of construction had been ordered and that it was an admitted position by the petitioner are not correct.

38. This is because the letter dated 27.06.2013 nowhere directs much less specifically, that no further constructions should be made rather referring to the order dated 10.05.2013



passed by this Court and the inspection made on 06.06.2013 in compliance of letter dated 24.05.2013 of the Municipal Commissioner it had directed the land owner to produce certain documents before the Executive Officer, New Capital Division, Patna and had directed the land owner to explain that (i) the height of building should not be more than 11 meters if the width of the road was less than 20 feet; (ii) no multi storied building was being constructed by him on road less than 20 feet wide and (iii) building being constructed on residential land was not being used for commercial purpose.

39. Thus, it has been wrongly stated in the notice dated 30.03.2015, in the order dated 24.11.2015 passed by the Municipal Commissioner as well as in the impugned order dated 31.07.2015 that by letter dated 27.06.2013 it was directed that further construction be stopped.

40. It would be evident from the order of the Tribunal dated 31.07.2015 that it has held that the entire construction of the petitioner was illegal because it was made in violation of stay of construction ordered vide above letter dated 27.06.2013. However, as stated above, this letter dated 27.06.2013 did not stay the construction. As there was no stay of construction ordered by the above letter dated 27.06.2013, there was no



question of the Municipal Commissioner vacating the same at any stage. Thus, both the findings of the Tribunal that by letter dated 27.06.2013 stay of construction had been ordered and the construction continued despite the Municipal Commissioner not vacating the stay granted on 27.06.2013 making the entire construction illegal are not correct.

41. The impugned order of the Tribunal held that though it was alleged that low quality materials have been used in the construction, the Municipal Commissioner in the order dated 24.11.2015 has not given any finding that no low quality materials were used and the construction bears no defect. In this regard, from the facts discussed above, it would be manifest that in Title Suit No.148 of 2014 filed by respondent 2nd and 3rd set an application for restraining the petitioner builder from making further construction of the building was made. One of the grounds to pray for injunction was that the petitioner was using low quality material due to which roof of the 2nd floor got cracked. By order dated 05.06.2015, the learned Sub-Judge-IV, Patna after taking note of inspection report carried by Municipal Corporation on 13.05.2015 held that on the basis of the report it cannot be said that the builder was using any low quality material in construction of the building and, thus, dismissed the injunction petition. By



order dated 06.09.2016 passed in Misc.Appeal No.36 of 2015, the appellate court dismissed the appeal filed by the respondent 2nd and 3rd set against the above order of rejection of injunction petition dated 05.06.2015 passed by the learned Sub-Judge-IV, Patna. Thereafter, vide order dated 18.10.2016 passed in Civil Misc. Petition No.1182 of 2016, this Court dismissed the Misc. Petition which was filed by respondent 2nd and 3rd set challenging the above order dated 06.09.2016 passed in Misc. Appeal No.36 of 2015.

42. Thus, the issue of using of low quality materials in the building had been considered at various levels including the High Court. There was no occasion for the Municipal Commissioner to have returned a different finding. Hence, the order of tribunal on the quality of materials used by the petitioner is not sustainable.

43. The Tribunal in its order dated 31.07.2015 referring to the order of the Municipal Commissioner dated 24.11.2015 has held that due procedure was not followed to obtain sanction of map as there were separate development agreement for nine katha and 3 katha of land whereas the map was sanctioned for a total 12 katha yet he did not cancel the map and did not stop construction. In this regard, I find that it is an admitted case that a



total of 12 katha of land was owned by the father of respondent 2nd and 3rd set. Out of this 12 katha of land, he gave 3 katha to his son respondent no.3 by gift deed registered on 23.09.2009 and his sons formed a partnership firm, namely, M/s SRM Builders. The respondent no.3 was its managing partner and he combined the above 9 katha of land and 3 katha of land and applied for sanction of map for the entire 12 katha of land, which was sanctioned on 17.02.2012. After the map of 12 katha was sanctioned on 17.02.2012, Surya Nest Build Ltd. as managing partner was to develop 9 katha under the deed of re-constituted partnership deed dated 12.07.2013 and Surya Nest Build Ltd. as developer was to develop the 3 katha of land under development agreement dated 12.07.2013. Thus, there was no illegality in the map of 12 katha of land having been sanctioned. Hence, there was never an occasion for the Municipal Commissioner to have cancelled the same exercising his powers under Section 336 of the Act and finding to the contrary by the Tribunal is erroneous.

44. Moreover, respondent 2nd and 3rd set has no locus to challenge the same as it was respondent no.3 who had applied and got the map sanctioned and at that stage the petitioner was not even in the picture.



45. In view of the discussions made above, the impugned order dated 31.05.2017 passed in Appeal Case No.44(N) of 2015 by the Tribunal cannot be sustained. It is set aside, accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.04.2019
Transmission Date	

