IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17134 of 2018

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New Market Dukaandar Kalyan Samiti Son of Late H.R. Sikdar, Resident of Flat No. G2 Block C, Karuna Appartment, Nawal Kishore Road, Kadam Kuan, Patna, P.S.- Kadamkuan. ... ... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Urban Development, Government of Bihar, Patna
2. The Commissioner, Patna Municipal Corporation, Patna.
3. The Deputy Municipal Commissioner, Patna Municipal Corporation, Patna.
4. The Executive Officer, Nutan Rajdhani Circle, PMC, Patna.
5. The Divisional Commissioner, Patna Division, Patna.
6. The District Magistrate, Patna.
7. The Senior Superintendent of Police, Patna.
8. The Superintendent of Police, Traffice, Patna.
9. The Officer-in- Charge, Kotwali Police Station, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Verma

For the Respondent/s : Mr.Yogendra Pd. Sinha- Aag7

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 16-09-2019

1. The present writ petition has been filed for directing the respondent-Municipal authorities of the Patna Municipal Corporation, Patna, not to remove the sign boards and name plates, relating to trade and business carried on within the premises, and affixed/ displayed on the premises of the shops situated at the New market area without resorting to the procedure of law.

2. The learned counsel for the petitioners Sri Verma has submitted that the respondent-Patna Municipal Corporation is bent upon removing the sign boards and name plates affixed by the shopkeepers of the New market area, although the same are within

the limits of their premises. In this connection the learned counsel for the petitioners has referred to ***Section 147 (2)(c) of the Bihar Municipal Act, 2007***, which is reproduced hereinbelow :-

> *"147- **Tax on advertisement**-*
>
> *(2) Notwithstanding anything contained in sub-section (1), no tax shall be levied under this Section on any advertisement which*
> *(c) relates to any trade, profession or business carried on within the land or the building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on, upon or in such land or building."*

3. *Per contra*, the learned counsel for the Patna Municipal Corporation has submitted that ***Section 145 of the Bihar Municipal Act, 2007*** enumerates that-

> *" 145. **Prohibition of advertisements without written permission of Chief Municipal Officer** :-*
> *(1) No person can be permitted to erect or fix or retain upon or over any land, building, wall, hoarding, frame post, kiosk, structure, vehicle, neon-sign or sky-sign, any advertisement or display any advertisement to public view in any manner whatsoever (including any advertisement exhibited by means of cinematograph), visible from a public street or public place, in any place within the municipal area without permission, in writing, of the Chief Municipal Officer."*

It is further submitted by the learned counsel appearing for the Patna Municipal Corporation that hoardings, sign boards/ name plates, affixed/ displayed on the shop of the New Market area, which have unauthorizedly been erected in the Patna Municipal area, without obtaining license from the competent authority, are in the process of being removed by the respondent-Patna Municipal Corporation.

4. At this juncture, when this Court had expressed the view that tax can only be levied upon an advertisement being made by the shopkeepers, by way of erecting, exhibiting, affixing or retaining upon any land, building or wall, any hoarding, frame post, kiosk etc., however, no tax can be levied in case, the shopkeepers are displaying sign boards/ name plates regarding their trade/ profession/ business activity being carried on by them within the land of the building upon or over which, such advertisement is exhibited, the learned counsel appearing for the Patna Municipal Corporation has submitted that the respondent- Patna Municipal Corporation is bound by ***Section 147 of the Bihar Municipal Act, 2007*** and the authority of the respondent- Corporation do not intend to levy any tax on the sign boards/ name plates, affixed on the premises/ buildings of the shopkeepers unless and until they are in the nature of advertisement.

Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the respondent- Patna Municipal Corporation, the present writ petition stands disposed off with agreement of the parties to the effect that the petitioners are free to affix sign boards/ name plates relating to their trade/ profession/ business being carried out in the said shop premises, within the land or the building premises appertaining to their shops, however in case such sign boards/ name plates exceed the area/ boundary limit of the shop in question, of the respective shopkeepers, then the Patna Municipal Corporation shall be free to take action, in accordance with the provisions contained in the ***Bihar Municipal Act, 2007***, after giving show cause notice and sufficient opportunity of hearing to the shopkeepers.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.09.2019
Transmission Date	NA