

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.400 of 2018

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M/s Gayatri Engicon Pvt. Ltd. Through its Managing Director, Muni Lal Yadav Son of Late Baishakhi Yadav, Resident of Flat No. 402, Shri Hari Apartment, Road, No. 10, East Patel Nagar, Police Station-Shashtri Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department o Urban Development, Govt. of Bihar, Patna
2. The Patna Municipal Corporation through its Commissioner Maurya Lok, Patna.
3. The Vigilance Officer, Patna Municipal Corporation Maurya Lok, Patna.
4. The Vigilance Officer, Patna Municipal Corporation Maurya Lok, Patna
5. Smt. Meena Devi, Wife of Sri Ashok Kumar Singh, Resident of Road No.1/A, Mahesh Nagar, Police Station- Patliputra, District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Advocate
For the Opposite Party/s	:	Mr. Yogendra Prasad Sinha, AAG- 7
For the P.M.C.	:	Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 23-01-2019 Heard Shri Sandeep Kumar, learned counsel for the applicant and Shri Prasoon Sinha for the Patna Municipal Corporation.

This Review Application has been filed contending that there is an error apparent on the face of the record in the impugned order dated 13th August, 2018 passed in L.P.A. No. 974 of 2018 and, therefore, the same deserves to be reviewed inasmuch as the ground taken by the learned Single Judge as



well as by the Division Bench while dismissing the appeal is not in conformity with the facts on record, particularly with regard to the depiction of the area said to have been wrongly made by the appellant at the time of sanction of the initial plan.

Having heard counsel for the applicant on length, we find that the following finding was recorded by the Tribunal at internal page 9 of the order:-

“So far the approach road towards west of the building in question is concerned, the learned counsel for the respondent no.-2 has submitted that the house of this respondent is situated on the rear side of the building-in-question since 18 years having provided approach road 10 feet wide situated on the west side of the alleged building and that approach road has been mentioned in his sale deed for egress and ingress but the appellant got sanctioned map showing the land of approach road as his side set back and erected projection thereon which is illegal. The learned counsel for the appellant replied that the said approach road is on his land and he has left the same for the respondent no.-2 and erected projection on his own land. From the perusal of the Photo copy of the sale deed dt. 22.1.93 filed by the respondent no. 2 it transpires that there is 10 feet wide road existing from nala left by vendor no. 2 in his own plot no. 1440 for common use of vendor no. 1 and vendee



(respondent no.-2) as shown in the west of the boundary in the sale deed. It means that the vendee respondent no.-2 has been provided 10 feet wide road by vendor no.-2 Sakaldeo Rai from his own plot no. 1440 for common use. Annexure-11, filed On behalf of the appellant is Amin report which is related with map and calculation of land regarding building-in-question. It shows that the area of approach road $39.55 \times 3.00 = 118.65$ sqr.m and the area in possession of the appellant $(492.071 - 118.65) = 373.421$ sqr. m has been mentioned. This annexure No. 11 clearly shows that the approach road width 10' wide is situated there and the appellant has land in possession measuring are 373.421 sqr. m whereas the appellant got sanctioned map on land measuring are 492.071 sqr. m. which is not justified. As such the area of the approach road for egress and ingress to the respondent no.-2 shall not be disturbed hence the learned court below has rightly held about the approach road situated towards west of the building in question. If the matter of the title on the approach road is involved between the parties, it cannot be adjudicated by this tribunal.”

The aforesaid finding has been upheld and the same has been found to be the basis for negating the claim of the appellant. Thus, there is no perversity on the issue of fact so as



to carve out a ground for error apparent on the face of record in
order to review the judgment dated 13.08.2018.

The application is, accordingly, rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

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