

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13070 of 2019

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1. Mahesh Jha Son of Late Yukti Nath Jha R/o House No. 105-B, Ashiana Nagar (Phase-I), P.S. Rajeev Nagar, Patna 800025
 2. Anil Kumar Singh S/o Late Kedar Nath Singh R/o House No. A/7, Abhiyanta Nagar, P.S. Rajeev Nagar, Patna 800025

... .. Petitioner/s

Versus

1. The Municipal Commissioner Patna Municipal Corporation
2. The Executive Engineer Patliputra Division, Patna Municipal Corporation, Patna Municipal Corporation
3. Smt. Kamla Singh Widow of Late Gauri Shankar Singh Secretary, Kamla Apartment Management Committee, Resident of Flat No. 11, Kamla Apartment, Patel Nagar, Road No. 10, P.S. Shastri Nagar, Patna -800023
4. Sri Sanjay Singh S/o Mahesh Singh Resident of Flat No. 33, Kamla Apartment, Patel Nagar, Road No. 10, P.S. Shastri Nagar, Patna -800023
5. Sri Siddharth Kshatriya S/o Sri Sharda Nand Singh Resident of Flat No. 42, Kamla Apartment, Road No. 10, Patel Nagar, P.S. Shastri Nagar, Patna -800023

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ramesh Jha
For the Respondent/s : Mr.Prasoon Sinha

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-07-2019 Petitioners are aggrieved by and dissatisfied with the order as contained in memo no.9303 dated 09.10.2018 passed by the Municipal Commissioner, Patna Municipal Corporation in Vigilance Case No.49B of 2017 by which the various orders have been passed including to demolish certain constructions allegedly made in the apartment by violating the building bye-laws and the sanction map.

Learned counsel for the petitioners submits that the



petitioners were not aware of the order passed by the Municipal Commissioner and have come to know about the same recently when action towards demolition was threatened vide letter no.1070/P dated 14.06.2019 issued by the Executive Engineer, Patliputra Division, Patna Municipal Corporation, Patna vide Annexure-9 to the writ application.

Learned counsel representing the Corporation submits that the impugned order is an appealable order in terms of Section 323 of the Bihar Municipal Act, 2007. It is submitted that necessary notification for appointment of the Chairman has already been issued and to his information he will be joining today and, therefore, the petitioners would have no difficulty in pursuing their remedy in the statutory appeal.

In the given facts and circumstances of the case, in view of the statutory alternative remedy available to the petitioners, learned counsel for the petitioners submits that the petitioners would pursue the remedy available to them in law but for the time being the coercive action pursuant to Annexure-9 of the writ application be stayed.

Considering the facts and circumstances of the case where this Court finds that the petitioners have an alternative statutory remedy available and that is in the nature of a first



appeal and the petitioners are now seeking some time to prefer statutory appeal with an application for interim relief, this Court directs that if the petitioners prefer a statutory appeal with an application for interim relief within a period of three weeks from today, no coercive action shall be taken against the petitioners pursuant to the notice as contained in Annexure-9 to the writ application till disposal of the application for interim relief of the petitioners.

This writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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