

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16055 of 2019

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Debesh Kumar Poddar Son of Late Bishnudeo Poddar, Resident of Dwarikapuri East, Back of Central School, Khagaul, P.S.- Khagaul, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Govt. of Bihar, Patna- 1.
2. The Principal Secretary, Urban Development Department, Govt. of Bihar, Patna.
3. Patna Municipal Corporation, Patna- 1.
4. The Municipal Commissioner, Patna Municipal Corporation, Patna- 1.
5. Patna Regional Development Authority, Maurya Lok Complex, Patna.
6. The Vice- Chairman, Patna Regional Development Authority, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vivekanand Vivek, Adv.
For the Respondent/s	:	Mr.Subhash Prasad Singh, GA-3
		Mr. Prasoon Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

2 23-08-2019 Heard learned counsel for the petitioner, State and the Municipal Corporation, Patna.

2. In this case, prayer has been made to declare and decide the right and title of the flat owners with respect to their parking area of vehicles in campus of Apartment-cum-Multistoried constructed and map sanctioned by the Municipal Authority or Regional Development Authority in the State of Bihar as well as to direct the Municipal Authority to frame the



bye-laws in terms of Chapter IV of Section 23 of the Bihar Apartment Ownership Act, 2006 regulating the affairs of such association specifying the right, title and duty of the flat owners of the apartment.

3. From reading of the pleading it appears that the grievance has been raised by the petitioner that certain persons, who have purchased the flats, have not been given the proper place for parking and further stated in this petition that what the builder is doing, even the parking space is being sold to the third party, thereby causing a great inconvenience to the members of apartment. In course of argument, the counsel for the petitioner submits that model bye-laws has not been framed which has been provided under section 23 of sub-section (2) of the Bihar Apartment Ownership Act, 2006. In that provision itself has been provided that in absence of the modern regulation, sub-section (2) of Section 23 itself prescribes the procedure, in absence of model regulation, Association of Apartment would frame regulation, taking into consideration Section 23 (3) of the Act for settling the dispute. If the builder is acting de hors to the statutory provision, he can approach to the Municipal Commissioner, who will examine the matter and take decision in a proper manner, if he is not satisfied, then a forum for appeal



is available which he may avail for redressal of grievance by the flat owner, it is not a fit case to be entertained in the present proceeding.

4. Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

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