

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20560 of 2014

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1. Paranjeet Kaur Wife of Narendra Singh resident of Lal Bazar, Gurudwara Road, Bettiah, District - West Champaran.
 2. Narendra Singh S/o Late Darshan Singh resident of Lal Bazar, Gurudwara Road, Bettiah, District - West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate, West Champaran.
3. The Sub-Divisional Magistrate, Bettiah, West Champaran.
4. The Executive Officer, Nagar Parishad, Bettiah, West Champaran.
5. Rajan Kumar Son of Late Krishna Nand Prasad Resident of Gali No. 2, Post and Police Station - Bettiah Town, District - West Champaran.
6. Anup Kumar Son of Late Krishna Nand Prasad Resident of Gali No. 2, Post and Police Station - Bettiah Town, District - West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. M. N. Parbat, Sr. Advocate Mr.Sanjeev Kumar Shrivastava, Advocate
For the Respondent/s	:	Mr.Sc27- Kinkar Kumar
For the Municipal	:	Mr. P.M. Sharan, Advocate
For respondent nos.5 & 6	:	Mr. Ranjan Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

8 19-04-2019 Heard learned counsel for the petitioners, State, learned counsel for the Municipal Council and learned counsel appearing on behalf of the private respondents.

2. Mr. Mahesh Narayan Parbat, learned senior counsel appearing of the petitioners would submit that in connivance of the Municipal Council, Bettiah the private respondents have made construction over the public gali. He further submits that from the report enclosed with writ petition there are materials to



indicate that the private respondents have made construction which is in fact impermissible under the municipal by-laws.

3. Learned counsel appearing on behalf of the Municipal Council submits that there is no encroachment over the public gali as the area in question is not public land or public gali.

4. Same contention of the private respondents is that land in question is not a public land. He submits that there is no departure from the approved map as sanction was made from approved map but contrary Mr. Parbat submits that map was rejected earlier and by manipulation the private respondents have obtained approval of the map in connivance with the municipal council, Bettiah.

5. Without going into the controversy whether the land in question is private land or public gali and whether there is encroachment over the public gali or construction by the private respondents is contrary to the sanctioned map, the Court in the totality of the facts and circumstances deem it fit and proper that the present writ petition may be disposed of with liberty to the petitioners to approach the authorities under Bihar Public Encroachment Act and register a case of land encroachment and the authorities are required to determine



whether there exist any public land, encroachment over the public road or public gali and if it is found that there is encroachment over the public land, public road or public gali, it shall be obligation of the authorities to remove encroachment by following the procedure prescribed under the Act.

6. It is needless to state that the authorities under the Act are required to give notice and provide hearing to all likely to be adversely affected by such decision.

7. Necessary decision as to the encroachment may be taken within a period of six months from the date of receipt/production of a copy of this order.

8. So far as the grievance of Mr. Parbat is concerned that the Municipal Council is in connivance with the private respondents has arbitrarily allowed construction, the petitioners, if so advised, may approach the Municipal Council for appropriate decision on the complaint as to the departure from the approved map, the Municipal Council is required to hear to all concerned and thereafter decide whether there is any departure from the approved map or not and take appropriate corrective measures in accordance with law within a period of three months from the date of filing of such complaint alongwith a copy of this order.



9. The parties are at liberty to file whatever documents available in support of their contention before the Municipal Council, Bettiah.

10. With the aforesaid observation, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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