

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23621 of 2018

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Rajendra Singh son of Late Charan Singh, R/o Mithapur M/s Bhargo Saw Mill, Khagaul Road, P.S. Jakkanpur, District-Patna.

... .. Petitioner/s

Versus

- 1.The State Of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
- 2.The District Magistrate, Patna.
- 3.The Chief Municipal Officer, Patna Municipal Corporation, Patna.
- 4.The Executive Officer, Patna City Circle, Patna Municipal Corporation, Patna.
- 5.The Executive Engineer, Patna City Division, Patna Municipal Corporation, Patna.
- 6.The Tax Collector, Patna City Circle, Patna Municipal Corporation, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinay Mistry
For the Respondent/s : Mr.Rajiv Roy- Gp1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 07-01-2019 There is a specific statement of the petitioner in Paragraph No.11 of the writ application that neither the measurement was done nor any show cause notice was served on the petitioner calling upon him to show as to why the showroom be not demolished. It is also stated that no adverse order was passed by the Chief Municipal Officer under the Bihar Municipal Act, 2007 before demolition of the building in question. Learned counsel submits that the petitioner is constructing the building on his private land and in case the Municipal Authorities were of the view that the petitioner had violated any provision of the Municipal Act and the building



Bye-laws framed thereunder, at least one opportunity of hearing was required to be given to the petitioner.

By filing I.A. No. 06 of 2019, the petitioner has prayed for a direction to conduct an enquiry with regard to the construction of building over 632 sq.foot plot and then set-aside the notice bearing Letter No. 12158 dated 07.12.2018 issued by the Municipal Commissioner, Patna Municipal Corporation, Patna under Section 324 (1) read with Section 323 (1) of the Bihar Municipal Act, 2007. It appears that by notice as contained in Annexure 1 to the Interlocutory Application the petitioner has been asked to stop the ongoing construction and then he has been called upon to show cause as to why the unauthorized construction made by him be not ordered to be demolished.

In the given facts and circumstances of the case, Mr. Prabhakar Singh, learned counsel representing the Patna Municipal Corporation submits that since the Municipal Commissioner has himself called upon the petitioner to submit his reply, it would be just and proper that the petitioner is directed to participate in the proceeding initiated before the Municipal Commissioner, Patna Municipal Corporation, Patna, submit his reply and represent his case. Learned counsel



submits that any action for demolition for unauthorized construction will be taken only after considering the show cause of the petitioner and after passing appropriate order thereon by the Municipal Commissioner.

Learned counsel for the petitioner has no objection to the same being done. Learned counsel for the petitioner submits that he will file his show cause/comprehensive reply with the Municipal Commissioner within a period of 15 days from the date of receipt/production of a copy of this order.

In view of the submissions made at the Bar, instead of keeping this writ application pending, this Court directs in terms of Annexure 1 to the Interlocutory Application that the Municipal Commissioner, Patna Municipal Corporation shall give full opportunity to the petitioner to show cause and place his submissions in course of hearing. The Municipal Commissioner shall consider the show cause and pass a reasoned order thereon referring to the relevant provisions of the Building Bye-Laws which the petitioner is said to have violated.

Till passing of the reasoned order by the Municipal Commissioner, no demolition work shall be undertaken to demolish the building or any part thereof. So far as the other issues are concerned, those are left open for the petitioner to be



agitated in an appropriate proceeding.

This writ application stands disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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