

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1465 of 2017

In

Civil Writ Jurisdiction Case No.9460 of 2017

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Ganga Kumar Srivastava Son of Late Uma Charan Prasad, resident of Lane 1F, Sheo Puram, Vijaya Nagar, Ward No. 2, Bailey Road, Police Station-Rupaspur, District- Patna. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Urban Development Department, Government of Bihar, Patna.
3. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
4. The Executive Officer, New Capital Circle, Patna Municipal Corporation, Patna.
5. The Executive Engineer, New Capital Circle, Patna Municipal Corporation, Patna.
6. The Assistant Engineer, New Capital Circle, Patna Municipal Corporation, Patna.
7. The Junior Engineer, New Capital Circle, Patna Municipal Corporation, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Suraj Samdarshi
For the Respondent/s : Mr.Yogendra Prasad Sinha -Aag7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 02-12-2019

“The present appeal has been preferred against the order dated 13.9.2017 passed in C.W.J.C. No. 9460 of 2017 by the Hon’ble Mr. Justice Ahsanuddin Amanullah, whereby and whereunder the writ application filed by the appellant for reducing the height of the drainage chamber, in light of the law laid down by this Hon’ble Court, has been dismissed on the ground that building plan of the appellant has not been sanctioned by the respondent Patna Municipal Corporation (hereinafter referred to as the ‘PMC’) and



as such the appellant cannot assail the action of the respondent PMC.”

Learned counsel clarifies that the appellant does not want any adjudication of the appeal on merits save and except to the observation made by learned Single Judge, holding that petitioner has to approach the Court with clean hand.

Having given our thoughtful consideration and considering the material and its entirety, we delete that part of the observation recorded in the impugned judgment dated 13.09.2017 passed by learned Single Judge In C.W.J.C. No. 9469 of 2017 (Ganga Kumar Shrivastava vs. the State of Bihar & Ors.), leaving it open for the writ petitioner, as prayed for, to take recourse to such remedy as are available in accordance with law.

Learned counsel for the petitioner contends that the construction existing on the spot is totally within the permissible limits and the Municipal Laws.

On this short ground, we dispose of the appeal with the aforesaid modification.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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