

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.620 of 2019

In
Civil Writ Jurisdiction Case No.16241 of 2011

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Kailash Kumar Mahto S/o Late Kusheshwar Prasad Mahto Resident Of
Mohalla-Laxmipur, Balbhadrapur B.K. Road, P.O. And P.S. Laheriasarai,
District-Darbhangha.

... .. Appellant/s

Versus

1. Ratan Kumar Mishra @ Ratna Mishra S/o Late Vishnukant Mishra R/o Village-Darhar, P.S.-Bahadurpur, District-Darbhangha.
2. The State of Bihar through its Chief Secretary, Bihar, Patna
3. The Commissioner Darbhanga Division, Darbhanga
4. The Collector Darbhanga
5. The Darbhanga Municipal Corporation Darbhanga, through its Chief Executive Office, Darbhanga
6. The Municipal Commissioner Darbhanga Municipal Corporation, Darbhanga

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Kishore Kumar Sinha, Adv.
Mr. Shashi Shekhar, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 24-02-2020 The instant appeal filed on 16.05.2019 is listed for
hearing for the first time today before the Court.

This appeal is directed against the order dated
17.04.2019 passed by a learned Single Judge in CWJC
No.16241 of 2011, titled as Ratan Kumar Mishra @ Ranta
Mishra Vs. The State of Bihar & Ors.



Learned counsel for the appellant states that there is no provision for grant of post-facto sanction also.

Well, if, it is so, such plea can be raised by all the parties including the appellant/respondent in the writ petition before the appropriate authority.

We find no reason to interfere with the impugned order which is reproduced in toto as under, for there is no adjudication of rights of the parties and that the learned Judge has held the consideration of the writ petitioner's application which, in our considered view, has to be in accordance with law:-

“Earlier the writ petition was disposed of by the Court, which was challenged before the L.P.A. Court on the ground that proper opportunity was not provided to the private respondent herein and the order was passed against the interest of private respondent. After considering the aforesaid, the L.P.A. Court allowed the appeal.

2. Heard learned counsel for the parties. It appears that the issue is only procedural, as according to the counsel



appearing on behalf of Darbhanga Municipal Corporation, the petitioner has simply filed application, but not completed the formality of the post-facto approval. If the issue involves in the present writ application is submission of application in the prescribed format for post-facto sanction, then it would be in the interest of justice that the petitioner may approach the Municipal Corporation, Darbhanga for post-facto approval after completing all the formalities.

3. In case, such application is filed by the petitioner, the Municipal Corporation, Darbhanga will take appropriate decision at the earliest preferably within a period of 60 days from the date of receipt of representation along with a copy of this order. At the time of passing order, if necessary, the Municipal Corporation may hear all stakeholders including the private respondent, as private respondent has claimed that the land in question is not the land of the petitioner, but the land belongs to him.



4. With the aforesaid, the present writ application stands disposed of.”

At this stage, learned counsel for the appellant states that a direction be issued to the authorities to also consider the material which the appellant/respondent in the writ petition would be placing before the authority.

Needless to add, it is the duty of the authority to consider all material before deciding the issue.

Such adjudication also has to be made within reasonable time and not later than six months.

Appeal stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

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