

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.629 of 2019

In
Civil Writ Jurisdiction Case No.10059 of 2015

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Nishant Engicon Pvt. Ltd. through Managing Director Krishna Lall, male,
aged about 69 years, son of Late R.P. Lall, Resident of Arya Kumar Road,
Rajendra Nagar, P.S. Kadam Kuan, District Patna.

... .. Appellant/s

Versus

1. Patna Municipal Corporation, Patna through its Municipal Commissioner,
Maurya Lok, Patna.
2. Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
3. Municipal Building Tribunal, Behind Patna High Court, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ray Saurabh Nath, Advocate
For the Respondent/s : Mr.Prasoon Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 10-02-2021

Heard the parties.

Aggrieved by the judgment and order dated 15.04.2019
passed in CWJC No. 10059/2015, passed by learned Single
Judge of this Court, dismissing the writ petition, appellant-has
preferred this letters patent appeal.

Briefly stated the facts of the case is that appellant is
architect and builder of the building which is being constructed
through a development agreement with land owners and Nishant
Engicon Pvt. Ltd. through its Managing Director and building
plan was sanctioned vide plan case No.4685 / 16 / 09/R-04-07 in



the name of M/s. Alpana Sen Gupta and Mrs. Anupam Sen Gupta, landowners, and was sanctioned for construction of G + 3 upto height of 10.95 meter.

A team of Municipal Corporation officers inspected the building which was under construction and found that the construction work of the apartment was in deviation of planned map, accordingly, a report was submitted by the inspecting team that the appellant has not left the required space for car parking on the ground floor as per the modified building bye-laws and constructions were made on the ground floor in violation of bye-laws. It was further reported that projections were illegally erected on each sides besides no land was left for road widening for which show cause was issued to appellant and he filed his reply.

The Municipal Commissioner in its order has held that appellant has not left the required space for car parking on the ground floor as provided in building bye-laws. There is specific provision in building bye- laws that one car parking @ 20 square meter shall be provided for every dwelling in residential apartment upto 11 meter height. Each of street parking space provided for motor vehicles shall not be less than 20 square meter. The minimum width of the driveway for motor



vehicle shall be 3 meter. It has been further held that appellant has not left the land over the plots in question for road widening in the front side road which is in complete violation of building bye-laws. Appellant has sold three flats during pendency of vigilance case in violation of building bye-laws.

On appeal being filed by the appellant before the Municipal Building Tribunal, the Municipal Building Tribunal has remanded the matter before the Municipal Commissioner for passing fresh order after verification regarding the issue if owner of the plot/builder has left the required space from his plot for road widening in rear side. The Tribunal has also remanded the matter to the Commissioner to condone the permissible deviation in the construction of the building in accordance with provisions of building bye-laws and if deviations are found not within the condonable limit, same has been directed to be demolished. However, finding of Municipal Commissioner with respect to other violation of building bye-laws made by appellant has not been interfered by the Tribunal.

Appellant had challenged the order dated 20.5.2015 passed by the Municipal Building Tribunal in appeal no.116 of 2014 as well as order dated 26.11.2014 passed by Municipal Commissioner, Patna in vigilance case No.63A/ 2013 which was



dismissed by the learned Single Judge by order dated 15.04.2019, as impugned in the LPA.

The learned Single Judge has held that there are concurrent findings in the orders passed by Municipal Commissioner, Patna as well as Municipal Building Tribunal, Patna who have discussed in detail the report submitted by the inspecting team which found several violation of building bye-laws as well as deviation from sanctioned map while making construction of building in question and dismissed the writ petition by a reasoned and detailed order.

After hearing learned counsel for the parties and considering the materials available on record, this Court does not find any error or infirmity in the order passed by the learned Single Judge requiring any interference. Accordingly, the LPA is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.04.2021
Transmission Date	NA

