

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 6909 of 2021

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Saurabh Suman S/o Late Meena Verma W/o Shashi Bhushan Resident of Flat No. 201, Chandan Villa Apartment, Opp Ramgarh Kothi, Bailey Road, Rukanpura, P.S.-Rukanpura, District-Patna (Bihar), PIn Code-800014.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, Patna
2. The Municipal Commissioner, Patna Municipal Corporation, Patna.
3. The Executive Engineer, New Capital Circle, Patna Municipal Corporation, C-Wing, 4th Floor, Mauryalok Complex, Patna.
4. The Chief Accounts Officer, Patna Municipal Corporation, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Gyanendra Kr Singh, Punam Shrivastava, Pradeep Kumar Sinha, Advocates
For the S t a t e	:	Mr Subhash Prasad Singh, GA III
For the Corporation	:	Mr Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH)

6 **25-04-2022** Heard learned counsel for the petitioner and the respondents.

The petitioner is seeking a direction to the Respondent-Patna Municipal Corporation to issue No Objection Certificate for *ex parte* registration of Flat No 201 situated in Chandan Villa Apartment, Opposite – Ramgarh Kothi, Rukanpura, Patna in accordance with the provisions under the Bihar Apartment Ownership Act, 2006 (the Act for short).



It is the petitioner's case that the said flat was purchased in the name of his mother and since the promoter failed to execute the deed of Apartment, she had made an application before the Municipal Commissioner, Patna Municipal Corporation in 2015 for the purpose of statutory enforcement of transfer envisaged under Section 21 of the Act which remained pending till she died.

A counter affidavit has been filed on behalf of the Municipal Corporation making following statement in paragraph 3 (IX) and (X) which reads as under:

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IX Since the mother of the petitioner has died, as such the petitioner is required to file an application in accordance with the prescribed Standard Operating Procedure for issuance of the required certificate under Section 21 (4) of the Apartment Act, along with a succession certificate as per Section 22 of the Apartment Act as well as an affidavit undertaking therein that the applicant/petitioner shall abide by the final decision taken in the vigilance case No 613A/2016 pending before the Municipal Commissioner, PMC against the builder/promoter/landholders of the Apartment in question.

X Thereafter the certificate as prayed by the petitioner shall be issued.”

The Corporation has also brought on record the ‘Standard Operating Procedure’ for unilateral transfer in case of



failure on the part of the promoter to execute a deed within six months after possession of the Apartment is handed over to the allottee (Annexure R2/C).

In such view of the matter, this application is disposed of with a liberty to the petitioner to make an application under Section 21 (4) of the Act adhering to Standard Operating Procedure, as prescribed by the Municipal Corporation.

Once such application is filed, after completing requisite formalities, it is expected that the Corporation shall proceed accordingly and take a decision within the time frame, prescribed under Section 21 (4) of the Act.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

M.E.H./-

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