

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1558 of 2019

In

Civil Writ Jurisdiction Case No.13507 of 2019

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Srikant Singh, son of Late Ram Dayal Sharma, Proprietor M/s Maurya Nursery opposite Basant Vihar, Maurya Lok complex, Patna at Present resident of Sai Sah Regency, Flat no. - 01, Kajipur, P.s.- Kadamkuan, Dist.- Patna.

... .. Appellant/s

Versus

1. The Patna Municipal Corporation, Maurya Lok Complex, P.s.- Kotwali, Town and Dist.- Patna through its Municipal Commissioner.
2. The Deputy Municipal Commissioner, Municipal Corporation, Maurya Lok Complex, P.s.- Kotwali, Town and Dist. - Patna.
3. The Director, Patna Municipal Corporation, Maurya Lok Complex, P.S.- Kotwali, Town and Dist.- Patna.
4. The Estate Officer, Patna Municipal Corporation, Maurya Lok Complex, P.S.- Kotwali, Town and Dist.- Patna.
5. The Executive Engineer, Patna Municipal Corporation, Maurya Lok Complex, Ps.- Kotwali, Town and Dist.- Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Kulanand Jha
For the Respondent/s : Mr.Prabhat Kumar

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 15-11-2022

Heard Mr. Alok Chaudhary, learned Advocate for the appellant and Mr. Prasoon Sinha for the Patna Municipal Corporation.

The appellant alleges that the issues raised by him before the learned Single Judge was



soft-pedalled and only litigation cost was awarded to the appellant which also was very paltry in his assessment as compared to the losses which he had suffered.

It appears from the impugned order that the appellant was permitted to sell plants etc. with no profit no loss objective and for doing so, he was also allowed to use a space where he had to develop a park at his own cost, which would have been environment-friendly and would have contributed to the green belt zone in an otherwise commercial area.

Be it noted that the park was set up in the setback area of the Maurya Lok Commercial Complex.

Later, such permission to use the park for maintaining a nursery and selling plants at no profit no loss was withdrawn.

While effecting the aforesaid policy of maintaining the park, certain fixtures put up by the appellant, were removed and were not handed over to the appellant. Even the potted plants were



found to be missing.

The appellant came rushing to this Court seeking mandamus against the respondent/Patna Municipal Corporation to grant permission to him to restore the iron grill and semi-glazed partition which had been erected by him for maintaining the park space and which was demolished in a hasty manner, without even apprising the appellant of the change in the policy or noticing him that he should remove the temporary structure put up by him.

The learned Single Judge, though found that the authorities acted posthaste, but did not agree with the contention of the appellant that he was liable to be restituted/compensated for the loss of potted plants, other items which were either damaged or were not to be found after the demolition drive was undertaken by the respondent/Municipal Corporation, Patna.

The learned Single Judge noted that the permission was granted only for maintenance of the park which did not include within its ambit, any



permission to construct even a makeshift partition and that the appellant does not have any vested right to continue to maintain the park against an agreement which permitted the Corporation to withdraw such concession at will. In the absence of any evidence of the property of the appellant having been purloined with the change/shift in the policy, no compensation was awarded by the learned Single Judge.

We find the aforesaid decision to be absolutely justified in the facts and circumstances of the case, especially when the Single Judge awarded the cost of litigation at Rs. 25,000/-.

After having said that, we express our displeasure at the decision of the Corporation in converting a green belt/park into a parking space and that also at the instance of the shopkeepers who found it difficult to park their vehicles. It is too late in the day to remind the authorities that under no circumstances can a green belt be reduced into a parking lot or converted into a commercial space. However, since we are in an appellate



jurisdiction, we say nothing further.

The appeal stands disposed of.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

SONALI/HR/-

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