

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.224 of 2022

In
Letters Patent Appeal No.268 of 2018

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1. Rajesh Kumar Sinha, Son of Late Dinanath Prasad, Resident of 6 Lal Bahadur Shastri Marg, North S.K. Puri, P.S. - S.K. Puri, District - Patna at present Secretary of D.D. Co-operative Housing Society Committee Ltd., Boring Road, Patna.
 2. D.D. Co-operative Housing Society Committee Ltd., through its Secretary Rajesh Kumar Sinha, aged about 58 years (Male), Son of Late Dinanath Prasad, Resident of 6 Lal Bahadur Shastri Marg, North S.K.Puri, P.S. - S.K.Puri, District - Patna.

... .. Petitioners.

Versus

1. The Apurva Awas Yojna Pvt. Ltd., Patna through its Director Smt. Sabitri Devi @ Sabitri Singh, Head Office Apurva Radha Complex, S.K. Puri, Boring Road, P.S. - Krishna Puri, District - Patna.
2. Smt. Sabitri Devi @ Sabitri Singh, Wife of Sri Ramjee Singh, Resident of Bihta, P.S. - Bihta, District - Patna at present Apurva Radha Complex, S.K. Puri, Boring Road, P.S. - Krishna Puri, District - Patna.
3. The State of Bihar, Patna.
4. Aanand Kishor, The Principal Secretary, Urban Development, Govt. of Bihar, Patna.
5. The Khagaul Nagar Parishad, Khagaul, District - Patna through its Executive Officer namely Sanjeev Kumar.
6. Sanjeev Kumar, The Executive Officer, Khagaul Nagar Parishad, Khagaul, District - Patna.
7. Akhilesh Dube, the Chairman, Municipal Building Tribunal, Patna.
8. Sri Haribansh Narain Pandey, Son of Baidyanath Pandey, Resident of C-13, Jagat Ambika Apartment, Brahm Ashthani Road, Sheikhpura, P.S. - Shastri Nagar, District - Patna.
9. Fahimuddin Ahmad Khan, Son of Late Moinnuddin Ahmad Khan, Resident of Egal Apartment Rajapurpul, Mainpura, P.O. - Mainpura, District - Patna.

... .. Opposite Parties.

Appearance :

For the Petitioners	:	Mr. Satyam Shivam Sundaram, Advocate.
For the State	:	Mr. Shankar Kumar, AC to AAG- 7.
For the Intervenor	:	Mr. Akashdeep, Advocate.
		Mr. Shyameshwar Kumar Singh, Advocate.
For O.P. Nos.5 and 6	:	Mr. Abhya Bhushan Sinha, Advocate.
For O.P. Nos.1 and 2	:	Mr. Ramchandra Singh, Advocate.
		Mr. Jai Ram Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and



**HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

8 23-11-2023 The present M.J.C. Petition is filed for non-compliance of the order of this Court dated 02.07.2019 passed in L.P.A. No.268 of 2018. It is necessary to reproduce the relevant extract of the order dated 02.07.2019 passed in L.P.A. No.268 of 2018. Paragraph-25 reads as under:

“25. For all what has been stated hereinabove and the reasons that we have given in support of our conclusions, we find that the judgment of the learned Single Judge dated 3rd of January, 2018 cannot be sustained. The appeals are allowed, the judgment dated 3rd of January, 2018 is set aside and the order of the Executive Officer dated 11th January, 2012 and that of the Appellate Tribunal dated 15th September, 2014 are upheld. The interim order passed by this Court staying further constructions shall continue until any final orders are passed in the proceedings initiated under section 323 of the 2007 Act.”

2. In the light of the aforementioned order or observation, on 01.09.2020 proceedings initiated under Section 323 of 2007 Act stands in favour of the petitioners. Therefore, the contempt petition is not maintainable. That apart, the



concerned party has a further remedy against the order passed under Section 323 of 2007 Act before the appropriate forum and it has been invoked. Respondents have submitted that there is no interim order against the order dated 01.09.2020 passed under Section 323 of 2007 Act. Faced with these material information, the present M.J.C./Contempt Petition stands infructuous. Accordingly, it is disposed of. Disposal of the present M.J.C./Contempt Petition would not be hurdle for the petitioners to execute the order dated 01.09.2020 passed under Section 323 of 2017 Act in view of the fact that there is no stay order against the order dated 01.09.2020 before the next higher forum.

3. With the aforesaid observations, the present M.J.C./Contempt Petition stands disposed of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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