

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2442 of 2023

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1. Shubhdra Devi, Wife of Shri Ajit Kumar, Resident of Dhulin Ganj, Near Radha Krishan Mandir, Gumty No. 1, P.S.- Delha, District- Gaya, Pin Code 823001.
 2. Renu Devi, Wife of Karthik Prasad, Resident of Chotki Delha, Tekari Road, P.S.- Delha, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development and Housing, Government of Bihar, Patna.
2. Gaya Municipal Corporation through the Chief Executive Officer, Gaya.
3. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.
4. The Chief Executive Officer, Gaya Municipal Corporation, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Syed Hussain Nazmi, AC to SC-6
For the Corporation	:	Mr. Rabindra Kumar Priyadarshi, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 22-08-2023

Heard Mr. Amaresh Kumar Sinha, learned counsel appearing on behalf of the petitioners and Mr. Rabindra Kumar Priyadarshi, learned counsel for the Gaya Municipal Corporation. Mr. Syed Hussain Nazmi, learned AC to SC-6, represents the State of Bihar.

2. The present writ application has been filed for the following reliefs:

“(i) For the issuance of a writ in the nature of writ of certiorari or any other appropriate writ, order or direction, quashing the order bearing memo No. 2225



dated 07.12.2022 (Annexure P /5) issued under the signature of the Municipal Commissioner, Gaya Municipal Corporation, Gaya, whereby the Petitioners have been directed to remove the illegal construction (i.e. dwelling house) of his own, failing which the said illegal construction shall be removed in the presence of the Executive Magistrate and the Police Force.

(ii) For the issuance of a writ in the nature of writ of mandamus or any other appropriate writ, order or direction, commanding the respondents, more particularly respondents No. 2 and 3, not to interfere with the constructed dwelling house over the plot no. 2396 (new). Khatta No.56 (new) in Mohalla Neta Ji Shubash Path, holding No.18, PS- Delha, District: Gaya, except in accordance with law.

(iii) For the issuance of a writ in the nature of writ of mandamus or any other appropriate writ, order or direction, commanding the respondents, more particularly respondents No. 2 and 3, to dispose of the representation dated 19.12.2022 filed on behalf of the petitioners, before taking any action against the petitioners' property.

(iv) For any other reliefs.”

3. It is submitted on behalf of the learned counsel for the petitioners that the petitioners having purchased a piece of



land in Mohalla Neta Ji Subash Path, appertaining to Khata No. 56 (New), Plot No. 2396 (New), Holding No. 18, P.S.- Delha in the district of Gaya through registered sale deed and the same was duly mutated in their favour. He further submits that the petitioners got a sanction plan prepared from the authorized architect of Gaya Municipal Corporation for construction of their dwelling house and submitted the said plan before the Gaya Municipal Corporation and also deposited the requisite fee. However, till date the same has not been approved. He further submits that instead of approving the sanction map plan, the Municipal Corporation has come out with Illegal Construction Case No. 141/ 3 /2021 against the petitioners for the alleged illegal construction made over the purchased land.

4. A counter affidavit has been filed on behalf of the Gaya Municipal Corporation and submissions has been made that despite notice being served upon the petitioners, they are avoiding their appearance in the case, due to which till date no final order could be passed. However, a *bonafide* has been shown on behalf of the Municipal Corporation and submission has been made with reference to averments made in para.8 of the counter affidavit that the respondent is ready to re-measure the plot/house, in question, in presence of the petitioners, if the



petitioners cooperate in the measurement.

5. The petitioners undertake that they will fully cooperate in the re-measurement of the plot/house, in question, and in disposal of the case.

6. Considering the submissions made on behalf of the parties and the averments made in the counter affidavit, the writ application stands disposed of with a direction to the petitioners to ensure their appearance in the aforementioned case and file a proper reply with a prayer to get the land /house remeasured in their presence.

7. It is needless to observe that if the petitioners file such petition/representation within a period of four weeks from today, the respondent Municipal Commissioner, Gaya Municipal Corporation shall consider their grievance and ensure re-measurement of the land/house in presence of the petitioners and thereafter pass the final order in accordance with law.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2023
Transmission Date	NA

