

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2437 of 2023

1. Manju Devi Jhunhunwala Wife of Late Brij Kishore Jhunhunwala, Resident of Krishna Silk Ghar, Braj Mahal, D.N. Singh Road, R.K. Market, Sujaganj, P.S. Jagdishpur, Ward No. 38, District Bhagalpur.
2. Prateek Jhunhunwala Son of Late Brij Kishore Jhunhunwala, Resident of Krishna Silk Ghar, Braj Mahal, D.N. Singh Road, R.K. Market, Sujaganj, P.S. Jagdishpur, Ward No.38, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Town Development, Government of Bihar, Main Secretariat, Patna.
2. The Principal Secretary, Department of Town Development, Government of Bihar, Main Secretariat, Patna.
3. The Bhagalpur Municipal Corporation, through the Municipal Commissioner, Swami Vivekanand Path, Khari Campus Bhagalpur.
4. The Municipal Commissioner, Bhagalpur Municipal Corporation, Swami Vivekanand Path, Khari Campus Bhagalpur.
5. Damodar Kumar Jhunhunwala Son of Late Radha Krishna Jhunhunwala, Resident of Flat No. 5, Floor No. 5, Shri Ram Palace, Upar Tola Jogsar, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Advocate Mr. Mohit Agarwal, Advocate Mr. Lokesh Kumar, Advocate Mr. Anand Kumar, Advocate
For the B.M.C.	:	Mr. Manoj Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Kinkar Kumar, SC-9 Mr. Zaki Haider, A.C. to S.C.-9 Mr. Ashutosh Kumar Upadhyaya, A.C. to S.C.-9

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 16-03-2023

Heard learned Senior Counsel for the petitioners,
learned counsel for the State and learned counsel for the Bhagalpur
Municipal Corporation.

The present writ application has been filed seeking
quashing of the order dated 19.01.2023 passed in Unauthorized



Construction Case No. 01 of 2022 by the Municipal Commissioner, Bhagalpur Municipal Corporation whereby the petitioners have been directed to demolish the deviation made in the construction.

Learned Senior Counsel for the petitioners raises a very short issue and submits that being aggrieved by the order dated 19.01.2023 in Unauthorized Construction Case No. 01 of 2022 passed by the Municipal Commissioner, Bhagalpur Municipal Corporation, the petitioners have preferred their statutory appeal being Appeal Case No. 1(S) of 2023 before the Tribunal but the Tribunal for the present is not functional. It is, thus, submitted that when the petitioners are availing their remedy available in law, would it be prudent for the Municipal Commissioner, Bhagalpur Municipal Corporation to demolish the deviation as recorded in the order dated 19.01.2023.

Learned counsel for the Municipal Corporation, Bhagalpur Municipal Corporation concurs with the submission made by the learned Senior Counsel for the petitioners that the Tribunal for the present is not functional.

In view of the submissions made, the writ application is disposed of with a direction that the order dated 19.01.2023 passed by the Municipal Commissioner, Bhagalpur Municipal



Corporation in Unauthorized Construction Case No. 01 of 2022 shall not be given effect to until the appeal is taken up.

The moment the appeal is taken up, the petitioners would be at liberty to pray for staying the operation of the order dated 19.01.2023 passed by the Municipal Commissioner, Bhagalpur Municipal Corporation in Unauthorized Construction Case No. 01 of 2023.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.03.2023
Transmission Date	

