

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4912 of 2023

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M/s Aarini Development Pvt. Ltd. through its Director Manish Kumar Singh,
Gender-Male, aged about-36 Years, Son of -Late Murli Manohar Singh,
Resident of Mithila Colony, Nashrganj, P.S.-Digha, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Executive Officer, Nagar Parishad, Daughter Nizamat,
4. The Officers In-Charge, Danapur Police Station, Danapur.
5. Nagendra Rai Son of Mahaveer Rai R/o-Ram Jaipal Nagar, Tirumala Colony, P.S.-Rupaspur, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bibhuti Narayan, Advocate.
For the Respondent/s : Mr. Subhash Pd. Singh, GA-3.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 28-08-2023

Heard the learned counsel for the parties.

2. The petitioner having been entered into a development agreement on 23.11.2019 for construction of residential building and also agreed to develop the said land and offered to built multi-storeyed residential complex over the land with the owner of the land approach before this Court seeking quashing of the order contained Memo No.3025, dated 08.07.2022 issued by the respondent no.3, the Executive



Officer, Nagar Parishad, Danapur Nizamat whereby the petitioner has been restrained from making construction and further directed to submit his reply. The petitioner further seeks quashing of the letter no.5347, dated 17.11.2022 whereby further notice has been issued to the petitioner directing him to stop the construction.

3. A submission has been made on behalf of the petitioner that on a complaint filed by one Nagendra Rai before the Real Estate Regulatory Authority (RERA) vide Complaint Case No.CC/1618/2020, the proceeding has been initiated and finally the matter went up to the Division Bench of this Court in LPA No. 263 of 2022, which came to be dismissed on 18.10.2022, in the meantime, the respondent no.3 without taking into consideration the above mentioned facts issued the impugned letter as contained in Memo No. 3025, dated 08.07.2022, directing the petitioner to stop the construction work and further a similar notice has also been issued as contained in letter no.5347, dated 17.11.2022, which are impugned herein. It is further submitted that in response to the aforesaid letter, petitioner submitted his reply and requested to grant further extension for construction of work, as due to the order issued by the Nagar Parisad restraining him



from making construction over the land, the same could not be done.

4. After some argument, learned counsel for the petitioner fairly submits that against the order passed by the Executive Officer, Nagar Parisad, Danapur, there is a remedy of appeal before the Municipal Building Tribunal, under Section 323(3) and he is under obligation to assail the order before the Building Tribunal, however, by the time he will move the Building Tribunal, let there shall be no coercive action against the petitioner, so that in the meantime any prejudice would not be caused to him. For the said purpose he prays for four weeks time to file an appropriate appeal against the order impugned herein.

5. Considering the submissions made on behalf of the petitioner, the present writ application stands disposed of with a liberty to the petitioner to file an appeal before the Municipal Building Tribunal, preferably within a period of four weeks from today.

6. It is need less to observe that if such appeal is filed within the aforesaid period the same shall be considered taking into account that the matter was pending before this Court and till that time there shall be no coercive action



against the petitioner.

7. Accordingly, the present writ application stands disposed of with the aforesaid liberty.

(Harish Kumar, J)

manoj/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2023
Transmission Date	NA

