

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6588 of 2018

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Maurya Heights, Buildcon Pvt. Ltd. Son of Syed Manawar Hussain @
Manawar Hussain, Resident of Mohalla-Panchaitiya Akhara, Muksudpur
Kothi, P.S.-Kotwali, District-gaya

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principle Secretary, Urban Development Department, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya
4. The Gaya Municipal Corporation through Municipal Commissioner, Gaya.
5. The Municipal Commissioner, Municipal Corporation, Gaya.
7. The Junior Engineer, Municipal Corporation, Gaya.
8. Rahul Kumar, S/o Bhola Sharma, R/o Kazi Farzan Lane, Nai Godown, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sudha Chandra, Advocate
For the Respondent/s	:	Mr. Abbas Haider-SC6
		Mr. Rabindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 09-05-2023 Heard learned counsel for the petitioner and learned
counsel for the State along with learned counsel for the
Municipal Corporation, Gaya.

Learned counsel for the petitioner submits that the
instant writ application has been filed seeking quashing of the
order dated 29.01.2018, contained in Memo No. 632, passed by
the Municipal Commissioner, Gaya whereby, based on the
direction passed by the Commissioner, Magadh Division, Gaya,
the petitioner has been directed to remove the alleged



unauthorised construction within a period of 15 days failing which the same shall be removed by using force at the cost of the petitioner, further to quash the order dated 27.11.2017 passed by the Commissioner, Magadh Division, Gaya in Complaint No. 43511007071703168/1A whereby without hearing or issuing show-cause to the petitioner, based on an application filed by one Rahul Kumar @ Rahul Sharma, has directed the Municipal Commissioner, Gaya to pass appropriate orders ensuring compliance of the removal of deviation and unauthorised structure referred in the complaint of the said Rahul Kumar @ Rahul Sharma.

Learned counsel for the petitioner submits that the Municipal Commissioner, Gaya in pursuance of the order dated 27.11.2017 passed by the Commissioner, Magah Division, Gaya as aforesaid, passed the order dated 29.01.2018 directing the petitioner to remove the alleged unauthorised construction, as recorded hereinabove. Learned counsel submits that if Rahul Kumar had any grievance with the petitioner then he had to move before the competent authority for seeking relief i.e., Municipal Commissioner but instead of moving before the Municipal Commissioner, he directly moved before the Commissioner, Magadh Division by filing the aforesaid



complaint based on which order dated 27.11.2017 came to be passed behind the back of the petitioner. It is next submitted that once the Commissioner has passed an order directing the Municipal Commissioner to remove the deviation, as alleged in the complaint of Rahul, where was the occasion for the Municipal Commissioner to apply his independent mind.

Learned counsel for the Municipal Corporation, Gaya submits that there is no dispute with the legal submissions raised by the learned counsel for the petitioner that if what has been submitted is correct then definitely the order of the Municipal Commissioner will require interference but then in the same breath he also submits that a counter affidavit has been filed on behalf of the Municipal Commissioner, Gaya wherein it has been specifically pleaded at paragraph '7' that Corporation is still ready to remeasure the building in question, to which the learned counsel for the petitioner agrees.

Considering the submissions made by the learned counsel for the parties, the order dated 27.11.2017 and the order dated 29.01.2018 passed by the Commissioner, Magadh Division, Gaya and the Municipal Commissioner, Municipal Corporation, Gaya respectively are set aside.

The writ application is disposed of with a direction



that the Municipal Commissioner, Municipal Corporation, Gaya
in view of the pleading made at paragraph ‘7’ shall do the
needful and in the event, if any deviation is found then action in
accordance with law shall be taken.

(Satyavrat Verma, J)

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