

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16378 of 2021

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Ghanashyam Prasad Son of Munilal Prasad Resident of Village- Bijli Colony
Tarwara More, Police Station- Sarai O.P., District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Police) Department, Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan.
4. The Deputy Collector, Land Reforms, Siwan.
5. The Sub-Divisional Officer, Siwan Sadar, District- Siwan.
6. The Block Development Officer, Siwan Sadar, District- Siwan.
7. The Circle Officer, Siwan Sadar, District- Siwan.
8. The S.H.O. Sarai O.P., District- Siwan.
9. The S.H.O., Siwan Town Police Station, District- Siwan.
10. Naznin Begum @ Nazmeen Vegam wife of Ezaz Ahmad, Resident of Village - At Siwan Chapra Road, Makhdum Sarai, P.S. - Sarai O.P., District - Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.
For the Respondent/s	:	Mr. Prabhat Kr. Verma (AAG-3)
		Mr. Sanjay Kumar Ghosarvey, AC to AAG-3
For the Intervenor	:	Mr. Satish Kumar Sinha, Advocate
		Mr. Javed Aslam, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

12 15-09-2023 The learned counsel for the petitioner is not present. Hence, we heard the learned AAG and the learned counsel appearing for the intervenor, who is respondent No. 10.

2. The public interest litigation was filed to stop the construction work of a mosque at the main entry of mohalla



Maa Yogeshwari Nagar, Mahpur, Police Station-Sarai O.P. District Siwan. By order dated 23.09.2021, a direction was issued to the District Magistrate, Siwan, who is the second respondent, to ensure that no construction be carried on in the premises, if sanction mandated under the law is not obtained. Even at that point, it was submitted by the learned AAG that the land for which construction is being carried out, though recorded in the ownership of the private individual (raiya land), no application for sanction of construction stands received by the competent authority.

3. The intervenor, respondent No. 10, is the donor of the land, who submits that the land was donated specifically for the purpose of construction of a mosque and hence, she is interested in the construction being carried out and completed. It is also submitted that the construction was commenced long back in a rural area where no sanction was required.

4. The learned AAG submits that the notification declaring the area to be an urban area was brought out on 26.12.2020. The writ petition is filed in the year 2021 and there is stay of construction directed in the writ petition. Merely because the construction was commenced earlier when the appropriate locality was comprised in a rural area; it cannot be



continued after the area being declared as an urban area. Even if the construction is half way, then further sanction had to be obtained from the appropriate authority.

5. It is also submitted by the AAG that only 5 feet from ground has been constructed and under Section 144 of the Cr. P.C., it has been stopped. We make it clear that no construction shall be carried out without proper sanction from the authorities.

6. In such circumstances, we find no reason to interfere with the interim order passed. We make the interim order absolute which clearly indicates that no construction shall be carried out without sanction mandated under the law.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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