

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3915 of 2017

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Madan Kumar Mishra Son of Sri Mahadeo Mishra, resident of Mohalla -
Ayachi Nagar, Ward No. 19, P.S. - Madhubani, District - Madhubani.

... .. Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Urban Development Department, Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Sub-Divisional Officer, Madhubani.
4. The Executive Officer, Nagar Parishad, Madhubani.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 14189 of 2016

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Hari Mohan Khosla Son of Late Yogendra Prasad Khosla, resident of
Village/Mohalla- Ayachi Nagar Ward No. 19, Police Station- Madhubani,
District- Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Urban Development Department, Bihar, Patna.
2. The Principal Secretary, Urban Development Department, Govt. of Bihar, Vikas Bhawan, New Secretariat, Patna.
3. The District Magistrate, Madhubani
4. The Sub- Divisional Officer, Madhubani
5. The District Disaster Management Officer, Madhubani
6. The Additional Collector , District Disaster Management Branch Madhubani
7. The Officer-in-Charge, Madhubani Police Station, Madhubani
8. The Executive Officer Nagar Parishad, Madhubani
9. Madan Kumar Mishra son of Mahadeo Mishra resident of Village/Mohalla- Ayachi Nagar Ward No. 19, Police Station- Madhubani, District- Madhubani



... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 3915 of 2017)

For the Petitioner/s : Mr.Sunil Kumar Karn

For the Respondent/s : Mr.Yogendra Prasad Sinha-AAG7
Mr. Nirmal Kumar Sinha, AC to AAG-7

(In Civil Writ Jurisdiction Case No. 14189 of 2016)

For the Petitioner/s : Mr.Ravindra Kumar Singh, Advocate

For the Respondent/s : Mr.Abbas Haider- Sc6

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 20-04-2023 The first writ petition (CWJC No.3915 of 2017) has been filed for quashing the notice dated 02.01.2017/31.01.2017, whereby and whereunder the petitioner has been directed to demolish second and third floor of the building in question.

Admittedly, no proceedings were initiated under the provisions of the Bihar Municipal Act, 2007, much less any notice was given to the petitioner to put forth his defence, prior to issuance of the aforesaid notice dated 02.01.2017/31.01.2017, hence, the principles of natural justice has not been complied with. The respondents have also failed to show that either any proceedings were initiated or any show-cause notice was issued to the petitioner prior to passing of the aforesaid notice dated



02.01.2017/31.01.2017, hence, the said notice stands vitiated in the eyes of law.

At this juncture, the learned counsel appearing for the petitioner in the second writ petition (CWJC No.No. 14189 of 2016) submits that in case the petitioner of the first writ petition undertakes not to construct any mobile tower, he shall have no grievance towards him.

The learned counsel appearing for the petitioner in the first writ petition submits that the petitioner of the first case does not intend to install any mobile tower over his building. In view of such an undertaking by the petitioner of the first case, the second writ petition (CWJC No.14189 of 2016) has been rendered infructuous, hence, stands disposed off.

Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, as far as the first writ petition (CWJC No.3915 of 2017) is concerned, the impugned notice dated 02.01.2017/31.01.2017 is set aside, however, liberty is reserved to the Nagar



Parishad, Madhubani and its authorities to proceed afresh, in accordance with law, in case they are of the view that the building constructed by the petitioner is contrary to the building bye-laws and the sanctioned map.

Accordingly, the first writ petition (CWJC No.3915 of 2017) stands allowed.

At this juncture, the learned counsel for the petitioner of the first case submits that though the petitioner has submitted representations thrice for post facto sanction of the construction made beyond the approved/sanctioned map/building plan, however, the authorities of the Nagar Parishad, Madhubani are not considering the same, hence, they be directed to consider the same and pass appropriate orders.

It is needless to state that in case appropriate representation has been filed by the petitioner of the first case for regularization/ grant of post facto sanction of the unauthorized construction made by him, the authorities of the Nagar Parishad, Madhubani are duty bound to



consider the same and pass appropriate orders in
accordance with law.

(Mohit Kumar Shah, J)

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