

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17059 of 2021

Gopal Kumar Son of Late Ram Chandra Singh Resident of House No.110, Indira Nagar, North of Anand Puri Nala, Rajapur, P.S. Patliputra, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Urban Development, Government of Bihar, Patna.
2. The District Magistrate cum Collector, District Patna, Bihar.
3. The Municipal Commissioner, Patna Municipal Corporation, Patna, Bihar.
4. The Vigilance Officer, Patna Municipal Corporation, Patna, Bihar.
5. The Executive Engineer, Patliputra Division, Patna Municipal Corporation, Patna, Bihar.
6. The Officer Incharge, Patliputra P.S., District Patna, Bihar.
7. Shri Shiv Chandra Singh Son of Late Ram Chandra Singh Resident of House No.110, Indira Nagar, North of Anand Puri Nala, Rajapur, P.S. Patliputra, District Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Awadesh Kumar, Advocate
For the Respondent/s	:	Mr. Indeshwari Prasad Mandal, AC to GA-3
For the PMC	:	Mr. Sanjay Prakash Verma, Advocate
For Resp. no. 7	:	Mr. Sanjeev Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 10-10-2023

Heard Mr. Awadesh Kumar, learned counsel appearing on behalf of the petitioner and Mr. Sanjay Prakash Verma, learned counsel for the Patna Municipal Corporation. The State is represented by Mr. Indeshwari Prasad Mandal, Mr. Sanjeev Kumar Singh, learned counsel for the respondent no. 7.

2. The petitioner on being aggrieved by the order dated 16.08.2021 passed by the Municipal Commissioner, Patna Municipal Corporation in Vigilance Case No. 03B of 2020, preferred the present writ petition seeking quashing of the same primarily on the ground that the impugned order has been passed



on the basis of a document (map plan), which is admittedly non-existent. He further submits that the site inspection has been done behind the back of the petitioner on the basis of which the impugned order came to be passed and thus on this score also the impugned order is illegal.

3. The subject matter of the writ petition is a residential premises identified as House No. 110, Indira Nagar, North of Anand Puri Nala which is being co-habited by the petitioner and the private respondent no. 7. It has been made clear that the respondent no. 7, who is also a co-sharer with the petitioner, filed a complaint before the Municipal Commissioner on 16.07.2019, alleging violation of the approved/sanctioned map and submitted that entire construction is illegal. Both the petitioner and respondent no. 7 were a party before the Municipal Commissioner in Vigilance case no. 03B of 2020, wherein after giving proper opportunity of hearing, the order came to be passed on 16.08.2021 which is impugned hearing.

4. Mr. Verma, learned counsel for the PMC, at the outset submits that since the petitioner has efficacious alternative remedy as provided under Section 323(3) of the Bihar Municipal Act, 2007, thus, he should approach before the Building Municipal Tribunal in terms of the aforesaid provision.

5. After some arguments, learned counsel for the petitioner seeks permission to withdraw the present writ petition



with a liberty to approach before the Bihar Building Municipal Tribunal preferably within a period of four (4) weeks.

6. It is needless to observe that by the time, till four weeks, no further action shall be taken in furtherance of the order dated 16.08.2021 passed by the Municipal Commissioner in Vigilance Case No. 03B of 2020.

7. At this stage, learned counsel for the petitioner submits that since the petitioner has been pursuing his remedy before this Court soon after the order having been passed by Municipal Commissioner thus, he prays for condonation of delay in preferring the appeal as provided under Section 323(3) of the Bihar Municipal Act, 2007.

8. Having considered the submissions and taking note of the fact that the petitioner was pursuing his remedy bonafidely before this Court, thus this Court directs the Bihar Municipal Building Tribunal to consider this aspect of the matter also while hearing the petition for condonation of delay.

9. Accordingly, the present writ petition stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.10.2023.
Transmission Date	NA

