

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11002 of 2023

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1. Nitin Kumar son of Late Buxi Sudhir Prasad, Resident of Buxi House, Rajendra Nagar, Arrah, Bhojpur.
 2. Buxi Rajat Prasad, son of Late Buxi Sudhir Prasad, Resident of Buxi House, Rajendra Nagar, Arrah, Bhojpur.
 3. Swayambara Daughter of Late Buxi Sudhir Prasad, Resident of Buxi House, Rajendra Nagar, Arrah, Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Principal Secretary, Urban Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
3. The Municipal Commissioner, Ara Municipality, Ara.
4. The Municipal Officer, Ara Municipality, Ara.
5. Sri Sanoj Kumar Bhagat, at present Municipal Commissioner, Ara Municipality, Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shyameshwar Kumar Singh, Advocate
For the Respondent/s : Mr. Kinkar Kumar (Sc 9)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 29-08-2023 1. The present writ petition has been filed seeking the following relief:-

“That this is an application praying for issuance of an appropriate Writ/ Order or Direction, in the nature of a Writ of Certiorari or any other appropriate writ/ order or direction for quashing the Order as contained in Memo No.724 dated 10.05.2023 as well as Order dated 01.07.2023 passed in Encroachment Case No.48 of 2023 whereby and whereunder, Respondent No.5, after



suo-moto cancelling the permission granted vide Office Order issued under Letter No.1453 dated 10.09.1997, has imposed a penalty of Rs.20,000 with directions to remove the alleged encroachment and has simultaneously imposed an additional penalty of Rs.8 Lakhs with direction to demolish the construction made in excess of the sanctioned plan failing which the same would be done at the expense of the Petitioners; The Petitioners further pray for a consequential writ/ order or direction in the nature of a writ of mandamus or any other appropriate writ/ order or direction, commanding the Respondents and more particularly Respondent No.5, not to interfere in the peaceful possession and enjoyment of the building of petitioner, save and except in accordance with law. In the facts and circumstances of the case, the Petitioners further pray for a direction to Respondent No.5 to hold an enquiry into the misuse and abuse of power and authority by Respondent No.5 and to take appropriate action in accordance with Law.”

2. At the outset, the learned counsel for the petitioners seeks liberty on behalf of the petitioners to challenge the letter dated 10.05.2023 and the order dated 01.07.2023, passed by the Municipal Commissioner, Ara Municipality Ara, by filing appropriate appeal, before the Bihar Municipal Building Tribunal, Patna however, seeks some protection during the interregnum period.



Liberty so sought is granted.

3. It is needless to state that for a period of four weeks from today, status quo existing as on today qua the land/house of the petitioner in question shall be maintained in order to enable the petitioner to file appropriate appeal along with a petition for grant of interim relief.

4. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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