

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3414 of 2017

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Bir Narain Singh son of Late Deo Narain Singh resident of Flat No. 3 - SFA - 4/11, Bahadurpur Housing Colony, Police Station - Agamkuan, Town and District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar Through its Chief Secretary, Government of Bihar, Patna
2. The Patna Municipal Corporation, Patna through its Municipal Commissioner.
3. The Municipal Commissioner, Patna Municipal Corporation. null The Respondent Nos. 2 and 3 having their offices at Mauryalok Complex, Dak Bunglow Road, Patna.
4. The Senior Superintendent of Police, Patna.
5. The City Superintendent of Police, East Patna.
6. The District Magistrate, Patna.
7. The Sub Divisional Officer, Patna City, Patna.
8. The Circle Officer, Patna Sadar, Patna.
9. The Station House Officer, Agamkuan Police Station, Patna.
10. The Executive Officer, Kankarbagh Circle, Patna Municipal Corporation, Patna.
11. Ranjan Kumar Yadav son of Late Muneshwar Prasad resident of Plot No. 188, Bhagwat Nagar, Police Station - Agamkuan, Town and District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nand Gopal Mishra, Sr. Advocate
For the Respondent/s : Mr. Rajiv Roy, GP-1

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

9 18-04-2023 Heard learned Senior counsel for the petitioner,

learned counsel for the private respondent and learned counsel

for the Patna Municipal Corporation.

This writ application is tagged with C.W.J.C. No.

22142 of 2018.



The C.W.J.C. No. 22142 of 2018 has been filed for setting aside the order dated 30.08.2018 in Appeal No. 10(S) of 2015 passed by the Municipal Building Tribunal-02 (arising out of Vigilance Case No. 228A of 2006) by which appeal preferred by the petitioner against the order dated 11.12.2015 passed by the Municipal Commissioner, Patna Municipal Corporation in Vigilance Case No. 228A of 2006 has been rejected.

The present writ application has been filed seeking a direction upon the Municipal Authorities to implement the order dated 11.12.2015 passed by the Municipal Commissioner, Patna Municipal Corporation in Vigilance Case No. 228A of 2006 whereby a direction was issued that the petitioner of C.W.J.C. No. 22142 of 2018 shall give an undertaking that he will not undertake any commercial activity on the plot in question and will submit a map for post-facto sanction of the construction in question failing which the entire construction would be considered illegal and would be demolished.

The C.W.J.C. No. 22142 of 2018 was taken up on several occasion and a detailed order was passed on 20.06.2019 wherein it was recorded that in terms of the liberty granted to the petitioner by order dated 11.12.2015 passed by the Municipal Commissioner, the petitioner had submitted his



request for sanction of map post-facto and reliance in this regard was placed on *Annexure-12 and 12A* to the supplementary affidavit filed on behalf of the petitioner (C.W.J.C. No. 22142 of 2018).

In C.W.J.C. No. 22142 of 2018 the present petitioner (Bir Narain Singh) had filed an I.A. application seeking intervention, but the same was rejected by order dated 20.06.2019 passed by the learned Co-ordinate Bench.

The C.W.J.C. No. 22142 of 2018 was again taken up on 02.07.2019 wherein the learned Co-ordinate Bench recorded the submission of the learned counsel appearing for the Patna Municipal Corporation who submitted that *Annexure-12 and 12A* does not enclose the proposed map based on which post-facto sanction is being sought, further that the petitioner (Ranjan Kumar) in terms of the order passed by the Municipal Commissioner dated 11.12.2015 had to give an affidavit within 15 days saying that he will not be continuing with the commercial activities in the building and that he will submit the documents relating to release of the land from land acquisition proceeding but those directions were never complied.

The said submission made on behalf of the Patna Municipal Corporation was rebutted by the learned counsel



appearing for Ranjan Kumar, stating that giving affidavit that no commercial activity is going on, at this stage, does not have any relevance as the property in question is already lying in a sealed condition and, therefore, no commercial activity or any other activity is going on in the said building.

Further, a submission was made that the petitioner is willing to participate by providing documents relating to release of the land from the land acquisition and the proposed map which may be considered by the Corporation.

The learned counsel appearing for the Patna Municipal Corporation in C.W.J.C No. 22142 of 2018 agreed with the submissions made by the learned counsel for the petitioner of that case submitting that if proposed map is submitted along with the documents showing that the land is free from land acquisition then the proposed map shall be considered in accordance with law.

Accordingly, the learned Co-ordinate Bench by order dated 02.07.2019 gave further opportunity to Ranjan Kumar to place on record the proposed map for its consideration in accordance with law.

Today, when C.W.J.C. No. 22142 of 2018 was taken up, a submission was made that in compliance of



the order dated 02.07.2019, the petitioner has already submitted a proposed map along with documentary evidence showing that the land in question is free from land acquisition on 20.07.2019. accordingly, the learned counsel for the Patna Municipal Corporation took time for filing a reply.

The present writ application i.e. C.W.J.C. No. 3414 of 2017 has been filed for implementation of the order passed by the Municipal Commissioner and its affirmation in appeal as recorded hereinabove.

In terms of the order dated 20.06.2019 and 02.07.2019 in C.W.J.C. No. 22142 of 2018, the matter has proceeded and the petitioner of that case Ranjan Kumar in compliance of the order dated 20.06.2019 and 02.07.2019 has already submitted the relevant documents along with the proposed map for seeking post-facto approval, as such, the present writ application does not merit any consideration and accordingly C.W.J.C. No. 3414 of 2017 is dismissed.

(Satyavrat Verma, J)

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