

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21214 of 2021

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Surya Pratap Singh, son of Late Keshavendra Pratap Singh, resident of Tarkeshwar Sadan, New Kulharia House, Exhibition Road, P.O., G.P.O., P.S.- Gandhi Maidan, District-Patna-800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The S.H.O., Gandhi Maidan Police Station, District-Patna.
5. Patna Municipal Corporation, Patna through the Municipal Commissioner, Patna Municipal Corporation, Patna.
6. Municipal Commissioner, Patna Municipal Corporation, Patna.
7. The Executive Engineer, Nutan Rajdhani Circle (North), Patna Municipal Corporation, Patna.
8. The Vigilance Officer, Patna Municipal Corporation, Patna.
9. The Deputy Director, Urban Planning, Patna Municipal Corporation, Patna.
10. Digivijay Singh, son of Late Mahendra Pratap Singh, resident of New Kulhariya House, West Exhibition Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shravan Kumar, Sr. Advocate Mr. Vivek Kumar Singh, Advocate
For the Respondent/s	:	Mr. Abbas Haider, SC-6
For the P M C	:	Mr. Prasoon Sinha, Advocate
For the Respondent No.10:	:	Mr. B. J. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 05-09-2023

Heard Mr. Shravan Kumar, learned senior counsel,
duly assisted by Mr. Vivek Kumar Singh, learned counsel for
the petitioner; Mr. Abbas Haider, learned SC-6 for the State; Mr.
Prasoon Sinha, learned counsel for the Patna Municipal
Corporation and Mr. B. J. Jha, learned counsel for respondent



no.10.

2. The petitioner has preferred the present writ application seeking quashing of the order dated 03.11.2021, passed by the Municipal Commissioner, Patna Municipal Corporation, Patna in Vigilance Case No. 31B of 2018, whereby and whereunder the Municipal Commissioner directed the petitioner to submit revised map and if he did not do so then the entire construction of his building has to be declared illegal under Section 323 of the provisions of Bihar Municipal Act, 2007 and demolish the building of the petitioner and recover the expenses incurred in such demolition by the petitioner according to law.

3. The petitioner further seeks quashing of the report dated 09.05.2019 submitted by the Deputy Director, Urban Planning, Patna Municipal Corporation rejecting the application dated 01.09.2018 filed by the petitioner for sanction of map of the building, in question.

4. It is submitted on behalf of the petitioner that the building of the house was the ancestral property of his father, namely, Shri Keshvendra Pratap Singh, who got sanction vide Case No. 547 of 1960 to make certain addition and alteration to the existing building situated at New Kulhariya Complex, near



Shashi Complex, Sri Kishore Path, Circle No.6, Plot no. 677, part of 704, Holding No. 296/326, Ward No.2, Survey Sheet Nos. 19 and 22, Thana Kotwali, Patna.

5. It is contended that the father of the petitioner has been regularly paying the holding tax to the Patna Municipal Corporation (hereinafter referred to as 'the Corporation') and after his death, the petitioner came in peaceful possession and continued to paying holding tax. The private respondent no.10, being Gotia of the petitioner made construction on the adjacent plot, which also included an unauthorized basement flouting all established norms and laws, however, despite written complaint filed against him, no action has been taken. He next submitted that the said private respondent, in order to spite the petitioner, got a complaint instituted by one Kamlesh Kumar Karn leading to institution of Vigilance Case No. 31B of 2018 against the petitioner. An enquiry has been conducted, headed by the Executive Engineer of the Corporation, who erroneously submitted his report dated 25.06.2018 that construction was being made without sanction of map and in violation of Building bye-laws, hence direction has been issued to the petitioner to stop construction till next order.

6. A show-cause notice was issued to the petitioner



and after having come to know, the petitioner submitted the map for approval of the work being undertaken on 09.10.2018. Thereafter the Municipal Commissioner of the Corporation passed order dated 06.03.2019 in Vigilance Case No.31B of 2018 by which the petitioner was directed to stop the construction and a penalty of Rs.2,00,000/- was also imposed under Section 315 of the Bihar Municipal Act, 2007.

7. In the meantime, the matter came to this Court at the behest of private respondent no.10, bearing C.W.J.C. No. 15378 of 2019. A Coordinate Bench of this Court having taken note of the submissions made on behalf of all the parties, including the petitioner, who was respondent no.5 therein, has been pleased to dispose of the writ application vide oral judgment dated 23.01.2020 with a direction to the Commissioner of the Corporation to decide the *lis* based on the assistance and materials, which may be produced before him by the parties concerned. While disposing the writ application, it is made clear that in the meantime *status quo* in terms of the earlier orders passed by the Court shall continue.

8. Pursuant to the order of this Court dated 23.01.2020, the Municipal Commissioner passed the impugned order dated 03.11.2021 vide Memo No. 14686, which is



impugned herein in the present writ application.

9. On the other hand, learned counsel for respondents, while refuting the contention of the petitioner submitted that apart from distorted facts, the petitioner has suppressed the material facts, inter alia, against the order impugned herein, the petitioner has already preferred appeal before the learned Municipal Building Tribunal and as such the present writ application is not at all maintainable.

10. At this juncture, learned counsel for the petitioner submits that now the petitioner has only grievance with regard to the observations made by this Court to the extent whereby *status quo* in terms of the earlier orders passed by this Court shall continue. He further contended that as the order of *status quo* was granted till the final order is passed by the Municipal Commissioner and the same having been disposed of, it has already lost its effect, but the respondent authorities taking shelter of such order is not allowing the petitioner to make further construction.

11. Having heard the parties, this Court finds that against the order impugned, the petitioner has already preferred appeal before the Municipal Building Tribunal and the same is pending consideration where all the parties have entered their



appearance and put their respective claims, thus the writ petition has now become infructuous.

12. So far the submission made on behalf of the petitioner to the extent of continuance of *status quo* order is concerned, needless to observe that the appeal is already pending before the Municipal Building Tribunal, hence the petitioner is at liberty to raise this plea before the Municipal Building Tribunal as well.

13. In case, such prayer would be made by the petitioner by filing an appropriate application, the same would also be considered by the Municipal Building Tribunal along with other issues.

14. The writ application stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2023
Transmission Date	NA

