

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7203 of 2016

Nishant Dwelling Pvt. Ltd. having its registered office at G-4, Hariniwas Complex, Dakbunglow Road, Patna, Bihar - 800001 represented through its Director Mr. Firoz Ahmad son of Md. Ishtiyaque Ahmad, resident of D/9, Indirapuri Colony, Rajabazar, P.S. Shastrinagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Department of Urban Development, Government of Bihar, Patna.
2. The Secretary, Department of Urban Development, Government of Bihar, Patna.
3. The Patna Municipal Corporation through the Municipal Commissioner, Maurya Lok, Patna.
4. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
5. The Municipal Building Tribunal - II, Patna Division, Patna Bihar through its Chairman.
6. The Chairman, Municipal Building Tribunal - II, Patna Division, Patna, Bihar.
7. The Principal Secretary RCD, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate Mr. Manoj Kumar, Advocate Mr. Praveen Kumar, Advocate Mr. Amit Singh, Advocate
For the Respondent/s	:	Mr. Prasoon Sinha, Advocate
For the State	:	Mr. Kumar Alok, SC-7 Mr. Pran Ranjan Raj, AC to SC -7 Ms. Rashmi Ranjan Bhushan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 03-08-2023

Heard Mr Rajesh Kumar, learned Counsel for the
petitioner as also Mr Prasoon Sinha, who represents the Patna
Municipal Corporation as also Ms. Rashmi Ranjan Bhushan
for the State.



2. The present petition has been preferred for the grant of following reliefs:-

(i) to issue an appropriate order/direction for quashing of the order dated 11.9.2015 passed by the Municipal Appellate Tribunal, Patna Division, Patna in Appeal No.130/2014 (arising out of Vigilance Case No.77A/13) by which the appeal of the petitioner (against the order passed by the Municipal Commissioner dated 25.11.2014 by which the sanctioned plan earlier granted has been withdrawn and declared the construction of 3rd 4th, 5th and 6th floor of the building in question illegal with further direction made to demolish the same along with various other directions) has not been interfered and with only modification to condone the permissible deviation as per the bylaws;

(ii) to issue an appropriate order/direction for quashing of the order dated 25.11.2014 passed by the respondent Municipal Commissioner, Patna Municipal Corporation in Vigilance Case No.77A/13 by which the sanction earlier granted



vide Plan Case No.P/Masalhapur/PRN/7-761/08 dated 2.2.2009 by it for the construction of G+6 building namely 'Maheshwari Manas Plaza', Saidpur Nahar Road, Patna has been withdrawn and has further declared the 3rd, 4th, 5th and 6th floor of the building in question as illegal and directed to demolish the same and with direction to the PESU to disconnect the electric connection and/or to the Registrar not to register any part of the building etc;

(iii) to hold and declare that the impugned order of cancellation of the sanctioned plan and direction for demolition of the said floor along with the other directions are wholly without jurisdiction and in violation of principles of natural justice as also contrary to the provision of law;

(iv) to issue an appropriate order/direction in the nature of mandamus directing the respondent authorities not to disturb the petitioner in completing the construction of the building in question as the same is in accordance with the sanctioned plan so issued with minor permissible



deviation.

3. The matrix of facts giving rise to the present writ application is/are as follows.

4. The petitioner-company represented through its Director, Firoz Ahmad is registered with the Company's Act 1956. Earlier, one of its erstwhile Director, Mahesh Kumar had entered into development agreement with Ram Tawakya Sharma on 09.05.2008 relating to a property in question situated at Mohalla-Mushallahpur, Pargana Azimabad, Police Station - Pirbahore, District-Patna for the construction of 'Maheshwari Manas Plaza' (Annexure-1 to the petition).

5. Accordingly, plan was submitted before the Patna Municipal Corporation (henceforth for short 'the PMC) which granted permission for G+6 construction of building vide Plan Case No. P/Mushalapur/PRN/7-761/08 dated 02.02.2009 (Annexure 2 to the petition).

6. The petitioner-company had shown the width of the road as 22.62 meter which included two parallel roads divided by an open '*nala*', It is the case of the petitioner-company that the Draftsman prepared the plan, the '*Amin*' checked the same on ground, was approved by the Junior Engineer as also the Assistant Engineer of the Patna



Municipal Corporation (henceforth for short 'the PMC') and only thereafter, the plan was sanctioned by the Executive Engineer.

7. However, a Vigilance Case Number 77A/13 was initiated against the petitioner-company on the basis of a measurement taken by the authorities on 14.09.2013 pursuant to the order passed by the Division Bench of this Court in **Narendra Mishra vs State of Bihar (CWJC No. 8152 of 2013)** in which it was recorded that the width of the road is between 5.20 meter to 4.95 meter with further note that an open '*nala*' was also included in the sanctioned map thus stretching the width of the road between 22.26 meter to 22.42 meter (Annexure-3 to the petition).

8. Upon notice, an objection was filed amongst other in which ground was taken and as per clause 2.74 of the By-laws, the drain has been included in the definition of road. So far as the strip of land 2.03 meter to 2.2 meter is concerned, it was assured that the same will be left after the construction of the boundary wall has been made (Annexure-4 to the petition).

9. It is the case of the petitioner-company that 'the PMC' thereafter, took up the matter and on 25.11.2014



after holding that the open '*nala*' could not have been included in the width of the road which as per measurement is only 4.95 meter to 5.20 meter for which the permissible height of a construction of building can not be more than 11 meter.

10. Further as there has been concealment of fact on the part of the petitioner-company for obtaining the sanction plan by representing the width of the road; in exercise of Section 38 of the Bihar Regional Development Authority, 1981 (henceforth for short 'the 1981 Act') read with Section 488 of the Bihar Municipal Act 1987 (henceforth for short 'the 1987 Act'), the sanction granted on 2.2.2009 (Annexure-2 to the petition) was withdrawn with the following directions:

(a) to demolish the 3rd, 4th, 5th and 6th floor of the said building;

(b) to construct boundary wall after leaving additional strip of land 0.38 meters to 0.39 meters and 2.03 meters to 2.2 meters strip of land for widening of the road;

(c) for compliance of order contained in Clause 1 and 11 and thereafter to obtain *post facto* sanction within three months and in the meantime



calculation of condonation will be done after which to obtain occupancy certificate and thereafter to occupy the building;

(d) not to create third party interest without the compliance of the order.

11. Aggrieved by the said direction given by 'the PMC', the petitioner-company preferred appeal before the Municipal Appellate Tribunal, Patna (henceforth for short 'the Tribunal') vide Appeal No. 130 of 2014.

12. The grounds taken in the said appeal was/were as follows:-

(i) 'the PMC' could not have passed an order under now repealed Section 38 of 'the 1981 Act';

(ii) there was no misrepresentation and/or concealment of fact as sanctioned plan clearly shows the open 'nala' in the map;

(iii) the sanctioned height of the building being 20.10. meter, the construction of the building is 20.37 meter from the plinth and as such the direction issued is in excess of its jurisdiction.

13. The Appellate Authority thereafter, taking into



account all the facts and after hearing the parties vide its order dated 11.09.2015 held as follows:-

(i) the building plan was sanctioned vide Plan Case No. P/Mushalapur/PRN/7-761/08 for construction of G+6 upto the height of 20.10 meter from the ground level showing the existing road to be 22.62 meter to 22.2 including open '*nala*' in the middle;

(ii) the sketch map and the measurement report of the building in question was constructed abutting the existing road 5.20 meter to 4.95 meter, thereafter a wide Saidpur open '*nala*' and after that there was parallel road;

(iii) the roads run east and west with a wide '*nala*' in between through which no one can pass;

(iv) the road of both sides runs parallel to each other, which cannot be included in the existing roads;

(v) as per the learned counsel for the appellant, the road includes the side of the land road and the width of the nala as per the clause 2.74 of the by-laws.



14. 'The Tribunal' thereafter incorporated

Clause 2.74 of the bylaws which read as follows:-

Clause 2.74 provides, street. Any light way, street lane, pathway, alley, stairway, passage way, carriage way, foot way, square, place or bridge whether through fare or not, over which the public have a right of passage or access or have passed and had access uninterrupted for a period with one year after completion of road development, whether existing, proposed in any scheme and includes all bunds, channels, ditches storm water drains, culverts, side walls, traffic in lands, road side trees and hedges, retaining wall fences, barriers and railing within the street line.

15. It further after defining Clause 2.74 of the by-laws held that there is a wide nala in the middle of the road from which the public have no access and thus, it cannot be included in the road within the meaning of existing road and in that background, the width of the existing road is 5.20 to 4.95 meter which is less than 6 meter (20 feet).

16. It further held that clause 20.11 note 11 provides:



“Every building more than 11m and up to 15m in height shall face minimum 6m wide existing road. If the plot abuts on the existing road less than 6m. in width in that case building more than 11m. shall not be allowed but building up to 11m in height shall be permitted on less than 6m of existing road provided the owner of the plot leaves from his plot for road widening purpose half of the strip of land required to make the approach road 6m wide.”

As per said provision, for construction of a building up to the height of 15m the existing road should be 6m wide. In this case, there is 5.20m to 4.95m wide existing road in front of the building-in-question. This provision especially provides for existing road at the present time not proposed. The building-in-question is situated in the existing road less than 6m. wide and as per said provision, the building in- question shall not be allowed more than 11m height. The building-in-question has been constructed G+6 upto the height of 20.37m from plinth level and 21.27m from road level. According to said provision the portion of building-in- question which is more than 11m height is liable to be demolished. Height of the building will be measured in the light of the order of



Hon'ble Patna High Court passed in Anup Kumar Vs., PRDA & others as well as the sanctioned map”.

17. So far as the questioning of the order under Section 38 of ‘the 1981 Act’ is concerned, ‘the Tribunal’ held that under the BRDA Act, Section 37(a), the Vice chairman was the authority to grant sanction of the map and the said section further provided power to it to cancel the sanctioned map, if the same is accorded under misrepresentation and thus he rightly exercised the same.

18. Further ‘the Tribunal’ held that the Municipal Commissioner granted sanction of the map and so the cancellation of permission under clause 11 of the By-laws is also vested with the Municipal Corporation, who is administering the bylaws.

19. It thus held that as the sanction of map was granted or construction of G+6 building up to the height of 20.10 meter from ground level showing existing road to be 22.62 to 22.24 meter without measurement of the open ‘*nala*’ which divides the two roads, it will come under the category of misrepresentation and section 38 of the erstwhile BRDA Act 1981 and Clause 11 of the modified building bylaws becomes applicable so far as cancellation of the map is



concerned, as the actual width of the existing road is 5.20 meter to 4.95 meter which is the only the width for egress and ingress of the appellant.

20. It thus held that the Municipal Commissioner was well within the power to take action.

21. So far as the deviation part is concerned, it held that the Municipal Commissioner should calculate the area of deviation and if it comes within the condonable limit, condone the same and if not to be demolished.

22, Finally, it held that as the width of the road is less then six meter, the maximum height of the building could have been only 11 meter and the further deviation within condonable limit be condoned and the rest is liable to be demolished.

23. Accordingly, the appeal was disposed of.

24. Still aggrieved, the present writ petition.

25. Heard learned counsel for the parties.

26. The contention put forward by Mr. Rajesh Kumar, learned counsel for the petitioner is that Annexure-2 (the sanctioned map) would clearly show that the width of the road was shown as 22.62 meter to 22.24 and further there was clarity inasmuch the 'nala' was shown between the road



and once covered, it will be 22.62 meter to 22.24 meter and as such there was no misrepresentation.

27. It is his further submission that there are culverts at regular interval which connect the two roads and as such 'the Tribunal' erred in recording that the two roads run independently till end.

28. His further submission is that in Clause 2.74 of the modified building by-laws, the street includes '*nala*' and as such taking into account the aforesaid definition, the width of the road is 22.62 meter to 22.24 meter.

29. The further submission is that the Municipal Commissioner could not have passed an order under section 38 of the BRDA Act which now stands repealed.

30. It is his submission that when the official of 'the PMC' which included right from the beginning, the Draftsman, the *Amin*, the Junior Engineer and the Assistant Engineer glossed through the map as also took site inspection and only after being satisfied, approved it which followed the approval by the Executive Engineer, can 'the PMC now claim that the sanction of map was done on misrepresentation.

31. It is his further submission that when the inspection of the building was done though the same was



recorded as unfinished, it was on the verge of completion and as such the said fact should have been taken into account before an order in question.

32. The case of the petitioner is that the power under Section 38 can be exercised only when sanction of site plan has been done by material misrepresentation and fraudulent statement to be later discovered by the authority. However, here no such misrepresentation and fraudulent act was done in obtaining the sanction plan as the '*nala*' was shown in the map duly approved by the officials.

33. He further submits that taking into account of the Clause 2.74 of the modified Building By-laws which defines the road and street, the open '*nala*' between two parallel roads comes within the definition of road and street as such the authorities erred in separating the '*nala*' with the two parallel roads as there are culverts connecting the parallel road on the said '*nala*'.

34. It is his further submission that so far as the case of **M/s Gayatri Engicon Private Limited vrs. The State of Bihar and Ors. (CWJC No. 8880/15)** is concerned, in that case also the plan was sanctioned for G+4 with the height to 15.20 meter but the builder constructed upto G+5



taking the height of 19.09 meter and further against the area shown as 492.071 square meter only 373.4 square meter was there and as such in that case fraud was committed which resulted into the passing of the order. However, in this case there was sanctioned plan for construction of G+6 building and as such, **M/s Gayatri Engicon Private Limited (supra)** case is not applicable.

35. The further submission is that the State Government in any case is going to cover the Saidpur '*Nala*' and once covered, it will come 22.62 meter and thus the orders need to go.

36. The last submission is that altogether 24 flat owners are residing between 3rd to 6th floor and an adverse order is directly going to affect them. He as such submits that both the orders be quashed.

37. Mr. Prasoon Sinha, learned counsel for 'the PMC', on the other hand, has taken this Court to the sanctioned plan to show that surreptitiously, the width of the road was shown as 22.62 meter to 22.24 meter without any clarity as to the actual width of the road on which the building is going to be constructed.

38. He submits that the officials concerned, who



visited the site, approved the said plan are equally responsible for the said misrepresentation/fraudulent act inasmuch as the Draftsman, the *Amin*, the Junior Engineer and the Assistant Engineer had complete knowledge of the fact that road on which the building is to be constructed is less than six meters and only after adding the '*nala*' and the other side of the road can it be recorded as 22.62 to 22.24 meter and still the same was cleared which finally resulted into the sanction of the plan by the Executive Engineer.

39. It is his submission that the departmental proceeding was also initiated against the Executive Engineer, Mr. Brahmadeo Dubey who sanctioned the map but unfortunately is no more. However, to a query by the Court whether the other officials (*who on earlier occasion went to the site and approved the plan before it was finally presented before the Executive Engineer*) were subjected to departmental proceedings or not, the answer was in negative.

40. Mr. Prasoon Sinha further submits that it is an accepted fact that the width of the road is 4.95-5.20 meter which is less than six meter and as such no construction could have been done beyond 11 meters.

41. Mr. Sinha further submits that so far as the



definition of Clause 2.74 of the bylaws on which the petitioner is harping is concerned, the same has already been clarified by the Municipal Building Tribunal.

42. He further took this Court to the order passed by a bench of this Court in the case of **M/s Gayatri Engicon Private Limited vs. The State of Bihar and Ors. (CWJC No. 8880 of 2015)** with specific reference to paragraph nos. 20 and 23 which reads as follows:-

20. In the light of the aforesaid order dated 06.07.2015, a counter affidavit has been filed on behalf of the respondent-State stating therein that there is no proposal from the Patna Municipal Corporation to cover the public drain running so as to join two streets situated on either side of the drain. The relevant paragraph nos.7 and 8 of the counter affidavit read as under:-

"7. That the instant counter affidavit is being filed on behalf of the answering State respondent in compliance of the order dated 06.07.2015 passed by this Hon'ble Court in the present case whereby a short adjournment has been granted to the State to seek instructions as to whether the public drain running at



Mahesh Nagar is to be covered so as to join the two streets situated on either side of the drain and if the answer is in affirmative then let the decision to such effect be placed on record.

8. That in reply to the aforesaid query made by this Hon'ble Court it is humbly stated that at present there is no such proposal from Patna Municipal Corporation. The State Government shall take decision within 15 days of receipt of such proposal."

23. At this stage, it would be pertinent to note that in Narendra Mishra (supra), a public interest litigation, it was highlighted that a large scale violation of building bye-laws was being committed by the builders and developers in Patna. In the said litigation, vide order dated 10.05.2013, a Division Bench of this Court directed the authorities concerned that till further orders, no apartment, complex or multi-storied building can be constructed beyond 11 meters and upto 15 meters in height unless the entire stretch and length of road in front abutting the building is uniformly and throughout 20 feet in width. The observations made by the Division Bench in



its order dated 10.05.2013 read as under:-

"We take notice of the fact that the present is not an isolated exception case in the Town of Patna. It is not possible for every citizen to approach this Court every time there is a building violation. Yet the number of such cases filed reveals a serious malady with allegations for construction of illegal apartments by builders. Complaints are filed by citizens before the Corporation which are ignored for very obvious reasons suiting the builder and those required to enforce the law. If applications are disposal of by the Court to consider the grievances still no action is taken by the Corporation leading to a repeat writ application by the aggrieved. The Corporation then reluctantly looks into the matter to report violations. Urban planning in the town of Patna leaves much to be desired. The municipal building bye laws appear to be followed more in breach by the Corporation than enforcement of the law. There has been and continues a mushroom growth of apartments even in lanes and bye lanes in gross violation of



building bye laws. An ingenious device was introduced by the authorities that even if the road in front was uniformly not twenty feet wide, the builder would leave area in front of a building to make the road twenty feet wide in front only. The Corporation would then imagine a non-existent state of affairs that the entire road was twenty feet wide and approve the building plan. Urban planning has been reduced to a zig zag road with the builder also subsequently enclosing that area shown as part of the road and private use ultimately. The resultant is urban chaos in Patna, all its aspects."

43. He further took this Court to the paragraph nos. 27 to 29 in which the learned Judge took note of Clause 2.74 of the bylaws and defined the same which read as follows:-

27. So far as the alternative plea taken by the petitioner that road includes drains in view of clause 2.74 of the modified building bye-laws is concerned, it would be relevant to extract clause 2.74 which reads as under:-



"2.74. Street- Any highway, street lane, pathway. alley, stairway, passage way, carriage-way. footway, square, place or bridge whether a thorough fare or not, over which the public have a right of passage or across or have passed and had access uninterruptedly for a period within one year after completion of road development, whether existing, proposed in any scheme and includes all bunds, channels, ditches, storm water drains, culverts, sidewalls, traffic in lands, road side trees and hedges, retaining walls fences, barriers and railing within the street lines."

28. From a reading of the aforesaid clause 2.74, it would be evident that the definition of street does not include the word 'drains' rather it includes 'storm water drains' which are meant to drain out rainy water.

29. Thus, the argument advanced by the petitioner in this regard is also contrary to the definition of the street as provided under clause 2.74 of the bye-laws".

44. So far as the claim of the petitioner that



section 38 of the repealed act could not have been invoked, he has taken this Court to Section 428 of the Municipal Act, 2007 Act in which it is clear that *all the Clauses/Sections of the erstwhile act/unless repealed or modified will be applicable.*

45. His further submission is that the said order of the learned Single Judge in **M/s Gayatri Engicom** was challenged in **LPA No. 974/2018** which came to be dismissed on **13.08.2018**.

46. Aggrieved, the **SLP (C) 14900 of 2019** was preferred which too came to be dismissed on **01.07.2019**.

47. He further submits that the decision of the learned Single Judge have been approved by the Division Bench of the Patna High Court as also the Hon'ble Supreme Court wherein it was held that if the entire stretch of road is not 20 feet, any construction over and above 11 meters will be deemed illegal and fit to be demolished.

48. He as such submits that in the particular case since the width of the road is less than 6 meters, any misrepresentation on the part of the petitioner-company by showing it as 22.62 meter cannot absolve itself from accepting the fact that the height of the building could not have gone beyond 11 meter . He as such submits that both 'the



PMC' as well as the Appellate Court have rightly passed the order and the present case is fit to be dismissed.

49. He submits that in this case, there was misrepresentation and as such the orders of **Gayatri Engicon (supra)** are fully applicable.

50. It is his further submission that the order of 'the PMC' had clarified not to create third party interest and if the petitioner defied the same, it has to face the consequences.

51. The State in its counter affidavit has stated that the Saidpur drain (nala) is very large drain serving vast population of East Patna and is managed and maintained by 'the PMC' under the administrative control of the Urban Development and Housing Department, Bihar, Patna. Further, although, a DPR was made to cover the said Saidpur drain, the same got returned with several objections and multiple suggestions for its rectification and as there was suggestion to increase the depth of the drainage to prevent its choking, the Road Construction Department chose not want to proceed further and take up the above project. The sum and substance of the State Government reply is that the matter of covering the '*nala*' for the present has been shelved.



52. Having heard the rival submissions put forward by the learned counsel for the petitioner, 'the PMC' and the State as also going through the records, The facts which are admitted/not denied by either of the parties is/are:-

(i) the actual width of the road on which the building has been constructed is presently less than six meters;

(ii) only after the '*nala*' and the other side of the road are included the width will go up to 22.62-22.42 meters;

(iii) the '*nala*' is wide open and thus the same could not have been calculated/included and/or could not have been shown in the width of the road;

(iv) though there are some culverts, it is not in front of the petitioner-company building;

(v) there was misrepresentation in the map prepared inasmuch as the width of the road was shown as 22.62-22.42 meter;

(vi) the officials of 'the PMC' admittedly/deliberately overlooked these facts which included the Draftsman/*Amin*/Junior



Engineer/Assistant Engineer while preparing the map and/or recommending the same before the Executive Engineer, who finally approved it.

53. In the light of order passed by the Division Bench of Patna High Court in **Narendra Mishra (supra)**:

- (i) an inspection of the building was made and the said facts emerged which followed the notice whereafter the Vigilance case was initiated;
- (ii) 'the PMC' having heard all the parties and taking into account the facts on record, came to the conclusion that the area and width of the road is not 22.62 meter to 22.24 but less than six meters and as such any construction made over and above 11 meters has to go;
- (iii) it accordingly passed an order and also warned against creating third party interest;
- (iv) 'the Tribunal' also vide its reasoned order chose not to interfere with the original order;

54. So far as the contention of the petitioner-company regarding non-applicability of **M/s Gaytri Engicon (supra)** (against G+4 sanctioned; G+5, was constructed), that in this case, G+6 was constructed, which was sanctioned, the



same has to be rejected *inasmuch* as once it is found that there was misrepresentation of facts, the map so sanctioned cannot come in the category of approved map.

55. So far as the Clause 2.74 of the by-laws is concerned, the same has already been clarified both by ‘the Tribunal’ as well as the learned Single Judge in paragraph-2 of its order in the case of **M/s Gayatri Engicon Private Limited (supra)** and incorporated here and need no further elaboration.

56. The facts remains that the petitioner-company with clear intention of misrepresentation, got a map prepared showing the width of the road as 22.62 meters and also got it cleared through all the officials upto the level of Executive Engineer but that cannot exonerate it from the fact that the original width of the road was and is still less than 6 meter.

57. As the admitted width of the road is less than six meter, in view of the orders passed by the Patna High Court in **M/s Gayatri Engicon Private Limited (supra)** which has been affirmed by the Division Bench as also the Hon’ble the Supreme Court, there cannot be any construction over and above 11 meters and thus any construction so made over and above it has to go.



58. So far as the case of the petitioner-company that number of families are residing between 3rd to 6th floor and they are going to be affected, again the same was done by it ignoring the order of 'the PMC' wherein the petitioner was directed not to create third party interests. Clearly, the petitioner-company again misrepresented the prospective buyers by showing them the sanctioned map. Thus, it will be the duty of the petitioner to return the amount that they have invested in purchasing the flat and also will be entitled for compensation.

59. As the officials who are/were the persons responsible for the alleged approval of plan followed by construction, they must also be proceeded against.

60. Thus, in the considered opinion of this Court:

- (i) the orders passed by both 'the PMC' in Vigilance Case No. 77A/13 on 25.11.2014 and by the Municipal Building Tribunal, Patna on 11.09.2015 in Appeal No. 130 of 2014 need no interference;
- (ii) 'the PMC' is duty bound to identify and act against the erring officials by putting them on notice and/or initiate departmental proceedings;



(iii) the flat owners affected by the order will be entitled to the return of the entire amount invested by them including the registry cost and also the compensation amount to be decided by an appropriate authority.

61. With the aforesaid observations, the writ petition stands dismissed.

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	AFR
CAV DATE	26.07.2023
Uploading Date	05.08.2023
Transmission Date	

