

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20960 of 2019

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Kalawati Devi Wife of Keshav Prasad Resident of Gewal Bigha, Post- Durga Sthan, Police Station- Rampur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Gaya Municipal Corporation through Town Commissioner, Gaya.
3. The Town Commissioner Gaya Municipal Corporation.
4. The Divisional Commissioner, Magadh Division, Gaya.
5. The Junior Engineer, Gaya Municipal Corporation, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhijeet Gautam, Adv. Mr. Vijay Kishore Bharti, Adv.
For the State	:	Mr. Rajeev Kumar Sinha, AC to AAG- 7
For the Gaya M.C.	:	Mr. Rabindra Kr. Priyadarshi, Adv.
For the Intervener	:	Mr. Neeraj Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 24-07-2023 Heard the parties.

The present petition has been preferred for the following relief:-

(i) for issuance of writ/s, order/s, direction/s in the nature of certiorari, for quashing the Notice Dated 01.08.2019 issued by Respondent No. 3, (The Town Commissioner Gaya Municipal Corporation) contain in Memo No. 1773/Gen in unauthorised Construction Case No. 37/34/18 to the petitioner for demolishing the portion of Residential House, which has been



constructed by deviating from the sanctioned Map in ward no. 34, holding no. 1203, 145 in Mohalla - Gewal Bigha, Gaya as per section 313, 314 of Bihar Municipal Act 2007.

(ii) for issuance of an appropriate writ/s, order/s, direction/s for quashing the report submitted by the Respondent No. 5 on 26.10.2018, whereby and under he directed the officer in-charge, Rampur, Gaya to registered a criminal case against the petitioner for construction of her residential house in ward no. 34, House No. 1203/145, Mohalla - Gewal Bigha, Gaya by deviating from the sanctioned Map.

(iii) for issuance of an appropriate writ/s, order/s, direction/s for quashing the order dated 27.04.2019 passed by Divisional Commissioner, Magadh Division, Gaya- Cum-First Appellate Authority, whereby and under he issued a direction to the Respondent No. 3, to demolish that portion of the house, which has been constructed by deviating from the sanctioned Map, upon the complaint filed by one Ranjeet Kumar Mishra.



(iv) for further any other relief/s, order/s, direction/s, may deem fit and proper in the facts and circumstances of this case 04:53 PM.

A perusal of writ petition shows that the petitioner has challenged the notice dated 01.08.2019 issued by the respondent No. 3, Gaya Municipal Corporation vide memo No. 1773 relating to Unauthorized Construction Case No. 37/34/18(Annexure P/10 of the petition).

Learned counsel for the petitioner on the Court's query as to why he has rushed to the Court only on the issuance of notice submits that tone and tenor is for demolition of the building and fearing the said demolition, this writ petition.

Mr. Rabindra Kr. Priyadarshi, learned counsel appearing for the Gaya Municipal Corporation supports the Court observation submitting that the petitioner should have appeared following the notice and satisfy the respondent authorities instead of filing writ petition.

Learned counsel for the petitioner submits that he will be diligently appearing pursuant to the said notice and will try to satisfy the Corporation but he may be given interim protection.

Learned counsel appearing on behalf of Gaya



Municipal Corporation submits that the notice is of 2019 and till date it is not the case of the petitioner that any demolition process has taken place and as such his prayer is unfounded.

The writ petition stands disposed of with direction to the petitioner to appear pursuant to the notice and the respondents shall take final decision accordingly after being satisfied and hearing all the parties.

It is expected that the entire process shall be completed within a period of three months from today.

Since no demolition has taken place for the last four years, it is further expected that the municipal authority shall not take any steps now till an order is passed by it.

(Rajiv Roy, J)

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