

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3661 of 2024

Nimisha Katriar Verma D/o Late Sunil Kumar Katriar, W/o Late Shashwat Verma, resident of 2nd house on Mandiri Nala Road, Off Bailey Road (North of Planetarium), Patna - 800001, Bihar Currently residing at D- 1/503, Supertech Livingston, Crossings Republic, NH - 24, Ghaziabad - 201016, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The Chairman, Municipal Building Tribunal Patna.
2. Patna Municipal Corporation, through the Municipal Commissioner, Maurya Lok, Patna.
3. Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
4. Chandra Bhusan Singh, S/o Hare Ram Prasad Singh, Flat No. 201, Maa Tarapith Complex, Justice Narayan Path, Nageshwar Colony, Patna.
5. Somya Rajat, d/o late Sunil Kumar Katriar, W/o Sri Anurag Rajat, resident of 2nd house on Mandiri Nala Road, off Bailey Road (north of planetarium), Patna - 800001, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ankit Katriar, Advocate
For the PMC	:	Mr.Prasoon Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 08-07-2024 Heard Mr. Ankit Katriar, learned counsel for the petitioner and Mr. Prasoon Sinha, representing the Patna Municipal Corporation.

2. The petitioner has prayed for the grant of following reliefs:

(i) for issuance of a writ in the nature of a writ of mandamus or any other appropriate writ / order / direction for a direction to the respondent authorities to give



immediate effect to the order dated 01.12.2022, passed in Vigilance Case No. 29(B)/2020, whereby and whereunder a direction was given to the Private Respondent No. 4 (builder) to inter alia (i) demolish the illegal 3, 4, 5th & 6th floor of the subject building, (ii) fill the illegal basement with sand, (iii) remove the illegal boundary-wall encroachment, inasmuch as the same has not only been illegal constructed without a sanctioned map but is also severely impeding the flow of traffic in the vicinity besides blocking the natural air and sunlight available to the petitioner at her adjacent residence; (ii) further prays for a direction to the Municipal Commissioner to forthwith comply with the Building Tribunal's persistent orders (5 dates so far over the course of more than 6



months), being passed in consequent Appeal No. 1(N)/2023, to send the lower court records (LCR) inasmuch as the same is mala fide not being sent by the PMC at the behest of vested interests. It is further prayed that learned Municipal Building Tribunal, Patna, before whom the consequent appeal bearing Appeal No. 1(N)/2023 is pending, be directed to dispose of the said appeal expeditiously in a time bound manner inasmuch as the rights of the Petitioner is being severely infringed on account of inaction by the respondent authorities;

(iii) further prays for to an interim, directions may be given to the respondent authorities to seal the illegally constructed basement as well as the 3rd, 4th, 5th & 6th floors till such time the lis of the matter is



adjudicated;

(iv) for issuance of any other appropriate writ /direction/order in the facts of the case to ensure timely and effective consequential relief to the petitioner.

3. The simple grievance of the petitioner is that despite litigation/assurances/undertaking, fact remains that the building is being illegally constructed continuously by the respondents despite the fact that it is less than half kilometer from the head office of Patna Municipal Corporation. The photos attached with the writ petition endorses the submissions put forward by the learned counsel for the petitioner.

4. He has come before this Court with a simple prayer that the Appeal No. 01 (N) of 2023 pending before the Municipal Building Tribunal 01 be taken up and disposed expeditiously.

5. A perusal of the last order dated 15.9.2023 would show that urgent reminder was sent by the Tribunal for providing Lower Court Records with table of contents and before that the same orders were passed on 4.8.2023 and 17.8.2023.



6. This Court fails to understand why so much time is being taken for providing Lower Court Records by the Patna Municipal Corporation.

7. It has been submitted by Mr. Prasoon Sinha representing the PMC that it has been sent, a fact endorsed by the learned counsel for the petitioner.

8. Learned counsel for the petitioner submits that Appeal No. 18(N) of 2022 has been preferred by respondent no.4 which is being heard alongwith Appeal No. 01 (N) of 2023.

9. The writ petition was filed in the month of February,2024, the last order is of September,2023 and as per the submission put forward by the parties, all the necessary respondents have already appeared.

10. The writ petition is thus disposed of with a direction to the respondent no.1 to take up the Appeal No. 18(N) of 2022 with Appeal No. 01 (N) of 2023 on day-to-day basis and conclude at an earliest and in any case within a period of two months from the date the copy of the order is provided to it.

(Rajiv Roy, J)

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