

Asha Devi Wife of Late Lal Babu Yadav Resident of Karwan Ki Sarai,
Malsalami Mian Road, P.S. Malsalami, Patna City, District-Patna.

Versus

1. The State of Bihar through Secretary, Urban development and Housing Department, Governmnet of Bihar Patna
2. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
3. The Executive Officer, Kankarbagh, Circle, Patna Municipal Corporation Patna.
4. The Executive Engineer, Kankarbagh Division, Patna Municipal Corporation, Patna.
5. The Vigilance Officer, Patna Municipal Corporation, 2nd Floor, Block-C, Maurya Lok, Patna
6. Parshu Ram Singh, S/o Garju Ray, R/o Mohalla-Bouddha Vihar Colony, P.S.-Bahadurpur Hosuing Colony, Dist-Patna.

... .. Respondent/s

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate Mr. Manoj Kumar, Advocate Mr. Praveen Kumar, Advocate Mr. Rohit Kumar, Advocate
For the Respondent/s	:	Mr. Prasoon Sinha, Advocate Mr. Sanjay Prakash Verma, Advocate

10 16-01-2024 Heard the learned counsel for the parties.

2. The letter dated 09.08.2019 by which the petitioner has been issued notice for removal of alleged encroachment is under challenge before this Court. It has been submitted by the learned counsel for the petitioner that no proceeding has been initiated by the Patna Municipal Corporation and without hearing the petitioner this impugned notice has been issued.

3. Mr. Sanjay Prakash Verma, appearing for the Patna Municipal Cooperation, is not in a position to defuse the



notice as no vigilance proceeding was initiated on the complaints against the petitioner.

4. A citizen cannot be asked to remove a part of his or her construction without initiating an appropriate proceeding even if it is an encroachment.

5. The learned counsel for respondent no. 6 has filed his counter affidavit and he submits that since it is an encroachment the same should have been removed and the writ petition is bound to be dismissed.

6. I am of the opinion that impugned notice cannot withstand the scrutiny of law. The same is set aside with liberty to the Patna Municipal Cooperation to act in accordance with law, i.e., if they get any complaint they should first initiate a proceeding and after hearing the parties they may pass necessary orders.

7. This writ application is allowed with the aforesaid liberty to the Patna Municipal Cooperation.

8. If any proceeding is initiated by the Patna Municipal Cooperation, it shall be disposed of expeditiously.

(Sandeep Kumar, J)

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