IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 2671 of 2022

Sanjay Vidrohi @ Sanjay Kumar Vidrohi, aged about 59 years, son of Late Shree Bhagwan Gadodia, resident of Geeta Bhawan, Beside S.S. Memorial College, Kanke Road, P.O.-Ranchi University, P.S. Gonda, District Ranchi, Jharkhand, PIN 834008. ..... Petitioner

Versus

1. **Ranchi Municipal Corporation**, through its Municipal Commissioner, having its office at Kutchery Road, P.O. G.P.O., P.S. Kotwali, District Ranchi, Jharkhand, PIN 834001.
2. **Ranchi Regional Development Authority**, through its Vice Chairman, having its office at Kutchery Road, P.O. G.P.O., P.S. Kotwali, District Ranchi, Jharkhand, PIN 834001.
3. **M/s. Aroma Construction Private Limited**, through its Director, having sits office at Aroma Palace, Albert Ekka Chowk, Main Road, Ranchi, P.O. G.P.O., P.S. Kotwali, District Ranchi, Jharkhand, PIN 834001.
4. **The State of Jharkhand,** through the Secretary, Urban Development and Housing Department, having its office at Project Building, Dhurwa, P.O. and P.S. Jagarnathpur, District Ranchi, Jharkhand, PIN 834004.
5. **Har Narayan Lakhotia**, son of Shiv Narayan Lakhotia, resident of Flat No. 3B, 3rd Floor, Chandralok Apartment, Court Road, P.O. G.P.O., P.S. Kotwali, District Ranchi, Jharkhand, PIN 834001. ..... Respondents

WITH

W.P.(C) No. 2830 of 2022

Har Narayan Lakhotia, aged about 83 years, son of Late Shiv Narayan Lakhotia, resident of Flat No. 3B, Third Floor, Chandralok Apartment, Court Road, P.O. – G.P.O., P.S. Kotwali, District Ranchi, Jharkhand, PIN 834001.

…… Petitioner

Versus

1. **The State of Jharkhand**.
2. **The Urban Development and Housing Department**, through its Secretary, having its office at Urban Development and Housing Department, Project Building, Dhurwa, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi-834004, Jharkhand.
3. **The Ranchi Municipal Corporation**, through its Municipal Commissioner, having its office at Ranchi Municipal Corporation, Kutchery Chowk, P.O. – G.P.O., Ranchi P.S. Kotwali, District Ranchi, 834001, Jharkhand.
4. **The Regional Development Authority**, through its Vice Chairman, having its office at Ranchi Regional Development Authority, Kutchery Chowk, P.O. and P.S. Sadar, District Ranchi-834001, Jharkhand.
5. **M/s. Aroma Construction Pvt. Ltd.**, having its registered office at Aroma Palace, Albert Ekka Chowk, Main Road, P.O. – G.P.O., P.S. Kotwali, District Ranchi-834001, Jharkhand, through its Director(s).
   (i) Vijay Kumar Singh, son of Mr. Ram Pravesh Singh, Ratu Road, P.O. Hehal, P.S. Sukhdeonagar, Ranchi-834001, Jharkhand.
   (ii) Bibhuti Bhushan Prasad Amar, son of Late Bishwanath Prasad Amar, resident of Ratu Road, P.S. Sukhdeonagar, District Ranchi-834001, Jharkhand.

6. **Sanjay Vidrohi @ Sanjay Kumar Vidrohi**, owner of Godown/Shop in the parking area of ground floor of Chandralok Apartment, Court Road, P.O. G.P.O., P.S. Kotwali, District Ranchi 834001, Jharkhand.

..... Respondents

CORAM: **Honble Mr. Justice Deepak Roshan.**

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(In W.P.(C) No. 2671 of 2022)

For Petitioner	Mr. Sumeet Kumar Gadodia, Advocate Mrs. Shilpi Sandil Gadodia, Advocate.
For Resp. No.1	Mr. Shashank Shekhar, Advocate
For Resp. No.2	Mr. Prashant Kumar Singh, Advocate
For Resp. No.3	Mr. Rajendra Krishna, Advocate.
For Resp. No.4	A.C. to A.G.
For Resp. No.5	Mr. Shambhu Nath Singh, Advocate (not present)

(In W.P.(C) No. 2830 of 2022)

For Petitioner:	Mr. Shambhu Nath Singh, Advocate (not present)
For Resp.No.1 & 2	A.C. to A.G.
For Resp. No.3	Mr. Shashank Shekhar, Advocate
For Resp. No.4	Mr. Prashant Kumar Singh, Advocate
For Resp. No.5	Mr. Rajendra Krishna, Advocate
For Resp. No.6	Mr. Sumeet Kumar Gadodia, Advocate.

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CAV On 03.12.2024 **Pronounced on.16/12/2024**

Heard learned counsel for the parties.

2. Since in both the writ petitions, order dated 27th May, 2022 passed in Misc. Appeal No. 06 of 2018 by Appellate Tribunal, Ranchi Regional Development Authority (for short 'RRDA') is under challenge, same were heard together and being disposed of by this common Judgment.

3. At the outset, it may be noted that writ applications were earlier listed on 28th November, 2024 and on the said date, arguments were advanced by the parties in *W.P.(C) No. 2671 of 2022*, but counsel for Respondent No.5, Mr. Shambhu Nath Singh did not appear and since writ petitions were analogous, Judgment was reserved. However, after Judgment was reserved, Mr. Shambhu Nath Singh appeared before this court and requested that he may be granted opportunity to advance his arguments as he could not appear due to medical emergency and, accordingly, on his request,

although Judgment was reserved in both the writ petitions, the matter was again posted on 29th November, 2024. However, the matter could not be taken up that day.

Subsequently, the matter was listed on 03.12.2024 upon mentioning, but counsel for the respondent No.5 in W.P.(C) No. 2671/2022 and writ petitioner in W.P.(C) No. 2830 of 2022, namely, Mr. Shambhu Nath Singh did not appear. On request of all the parties present, the Court proceeded to hear the matter on the basis of the pleadings in respective writ petitions and judgment was reserved by this Court on 3rd December, 2024.

4. Writ Petitioner-Sanjay Vidrohi @ Sanjay Kumar Vidrohi in *W.P.(C) No. 2671 of 2022* (hereinafter referred to as 'co-resident') and Writ Petitioner-Har Narayan Lakhotia in W.P.(C) No. 2830 of 2022 (hereinafter referred to as **'Complainant'**) are both owners of the property in *Chandralok Apartment* which has been constructed by Respondent-Builder namely, M/s. Aroma Construction Private Limited.

5. From the pleadings, it appears that both the writ petitioners, being neighbours, are not having good relation with each other, which led to series of litigations between them.

6. The Builder-M/s. Aroma Construction Private Limited initially got its Building Plan sanctioned by Respondent-RRDA vide B.C. Case No. 359/96 and at the stage of making construction, certain additional area was constructed within the permissible deviation limit of relevant building bylaws and, accordingly, an application for revised sanction of map for post facto approval of additional construction was made by the Builder before RRDA, which was registered as BC Case No. 102 of 2007. It is not in dispute that after payment of regularization fee of Rs. 1,52,140/-, additional construction was regularized by RRDA.

However, it was the case of Respondent No.5 in *W.P.(C) No. 2671 of 2022* and Writ Petitioner in *W.P.(C) No. 2830 of 2022*, namely Har Narayan Lakhotia that additional construction made by the Builder was sanctioned by officials of RRDA in collusion with the Builder and, accordingly, Complainant filed a Public Interest Litigation (PIL) before this Court being *W.P. (PIL) No. 1531 of 2011* alleging, inter alia, that Building Plan was sanctioned with the connivance of officials of RRDA and Builder and, accordingly, prayer was made in PIL for issuance of direction for removal of illegal and unauthorized structure constructed on the ground floor of *Chandralok Apartment*. Initially, in the said PIL, this Court, after noticing the fact that several multi-storied buildings have been illegally and unauthorisedly constructed, vide order dated 22.03.2011, directed Central Bureau of Investigation to carry out investigation and, accordingly, RC Case No. 03/A/2011 dated 30.03.2011 was registered.

It may be noted that during pendency of the aforesaid PIL, since jurisdiction of sanction of Building Plan was transferred from RRDA to Ranchi Municipal Corporation (for short 'RMC'), an investigation of *Chandralok Apartment* was conducted by officials of RMC and a report, vide Letter No. 1711 dated 08.05.2015, along with relevant documents was prepared stating that an excess construction of 0.39% was made by Builder for which revised Building Plan vide B.C. Case No. 102/2007 was already sanctioned and such construction has been regularized by the officials of RRDA.

7. *W.P. (PIL) No. 1531 of 2011* was taken up for consideration and this Court, after taking into consideration that additional construction of 0.39% in FAR has already been regularized by RRDA, was pleased to drop the proceeding of PIL vide order dated 21.11.2016.

Said order was challenged before Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 3800 of 2017 and said S.L.P. was also dismissed vide order dated 09.05.2017. Thereafter, Complainant even filed a C.M.P. application before this Court by placing reliance upon Enquiry Report of Respondent-RMC contained in Memo No. 1711 dated 08.05.2015 and aforesaid C.M.P. bearing C.M.P. No. 240 of 2018, was also dismissed by this Court after correction of typographical error in earlier order dated 21.11.2016, by imposing a cost of Rs. 10,000/- (ten thousand) upon Complainant, vide order dated 9th October, 2018**.**

It further appears that Complainant, after dismissal of PIL, filed a Complaint before Respondent-RMC on 10.10.2016 alleging fraudulent sanction of revised Building Plan being B.C. Case No. 102 of 2007 by RRDA, which was registered as U.C. Case No. 110 of 2016. In the said complaint, notices were issued to the Builder and co-resident and they appeared and filed their respective replies before the Municipal Commissioner, RMC. The case of the Complainant in U.C. Case No. 110 of 2016 was primarily based upon the charge-sheet submitted by CBI in R.C. Case No. 03/A/2011 dated 30.03.2011 and it was the contention of the Complainant that CBI, in its charge-sheet, specifically found that there was involvement of the Builder with connivance of officials of RRDA for sanction of revised Plan being B.C. Case No. 102 of 2007 and, on the said basis, Complainant insisted that construction made on ground floor of *Chandralok Apartment*, in possession of the co-resident, should be ordered to be demolished.

8. The Municipal Commissioner, vide its order dated 04.01.2018 passed in U.C. Case No. 110 of 2016, after taking into consideration the order passed in *W.P.(PIL) 1531 of 2011* and order passed in *S.L.P. No. 3800*

of 2017 including charge-sheet dated 21.10.2011 submitted by CBI, disposed of aforesaid U.C. Case by recording, inter alia, that revised Building Plan condoning the deviation after accepting the penalty amount has already been sanctioned by RRDA and the matter pertaining to alleged connivance between officials of RRDA and Builder is subject matter of trial before Special Court, CBI and until any final order is passed in aforesaid trial pending before Special Court, CBI, no further action can be taken in U.C. Case (unauthorized construction case).

Against the said order, Complainant preferred an Appeal being Misc. Appeal No. 06 of 2018 before Appellate Tribunal, RRDA, Ranchi. In the said Appeal, Respondent-RMC appeared and filed its reply supporting the order of Municipal Commissioner dated 04.01.2018 and stated, inter alia, that deviation made in the construction of *Chandralok Apartment* was earlier already regularized by RRDA by imposing penalty of Rs. 1,52,140/-, and the aspect pertaining to alleged connivance between the Builder and officials of RRDA in sanctioning the aforesaid revised map is subject matter of consideration before Special Court, CBI and, hence, Municipal Commissioner has rightly passed order closing the unauthorized construction case by recording, inter alia, that pursuant to decision by the Criminal Court, if required, further action can be initiated regarding unauthorized construction.

The Appellate Tribunal, vide its order dated 27th May, 2022, set aside the order dated 04.01.2018 passed in U.C. Case No. 110 of 2016 and remanded the matter back to Municipal Commissioner, RMC for passing fresh order in U.C. Case No. 110 of 2016.

10. Being aggrieved by aforesaid order, not only co-resident, but the complainant also preferred Writ Petition before this Hon'ble Court.

11. Counsel appearing for co-resident, Mr. Sumeet Gadodia, assisted by Mrs. Shilpi Sandil Gadodia, vehemently submitted that order passed by Appellate Tribunal is completely contrary to the letter and spirit of the order passed by this Court dated 21.11.2016 passed in *W.P.(PIL) No. 1531 of 2011*. While referring to the order of this Court dated 11.10.2017 in *W.P.(Cr.) No. 314 of 2011* and analogous case (Annexure-10), it was submitted that Complainant filed an Interlocutory application before this Court in pending writ petition/quashing application filed by Builder and other officials of RRDA challenging the order taking cognizance passed by Special Court, CBI. Since said Interlocutory application was filed by Complainant after dismissal of its PIL as well as SLP, only with an attempt to further harass the co-resident and since Complainant had no locus to intervene in the matter pertaining to challenge of the order taking cognizance passed by Special Court, CBI against the Builder and officials of RRDA, the Complainant withdrew the Interlocutory application with a liberty to raise his grievance before appropriate forum.

It has been vehemently submitted that Appellate Tribunal, despite dismissal of PIL and SLP, only on the strength of aforesaid order dated 11.10.2017 passed in *W.P.(Cr.) No. 314 of 2011*, again permitted the Complainant to re-agitate the same issue of alleged deviation and condonation of deviation by RRDA, which is not permissible in the eye of law.

12. Mr. Shashank Shekhar, counsel appearing for Respondent-RMC, while adopting the arguments of co-resident, further submitted that revised map regarding permissible deviation was already sanctioned by RRDA after accepting penalty and, thus, there was no occasion for the Municipal Commissioner for further proceeding in U.C. Case No. 110 of 2016. It was

further submitted that Municipal Commissioner passed reasoned order specifically noticing therein the fact pertaining to the order passed by this Court in PIL and on sound legal principle made distinction between criminal case and civil proceeding.

13. Mr. Prashant Kumar Singh, counsel appearing for Respondent-RRDA, submitted that revised Building Plan has already been sanctioned after accepting penalty and if any connivance between officials of RRDA and the Builder is proved in the trial pending before Special Court, CBI, it would be always open for the Complainant to re-approach the Municipal Commissioner for initiating a fresh U.C. Case, but, at this stage, U.C. Case was not maintainable.

14. Mr. Rajendra Krishna, learned counsel appearing for the Builder vehemently submitted that conduct of the Complainant right from very beginning has been to harass the Builder despite knowing fully well that revised map was already sanctioned after accepting penalty. It has been submitted that as per revised map, certain portion was constructed on ground floor and even an additional flat was constructed which has been purchased by daughter-in-law of the Complainant namely, Kavita Lakhotia.

It has been submitted that Complainant, on one hand, is beneficiary of the revised map and, on the other hand, is raising grievance against sanction of said revised map, merely because he has some alleged dispute with co-resident. Mr. Krishna submitted that writ petition filed by co-resident should be allowed and the order passed by Appellate Tribunal should be set aside and, further, writ petition filed by Complainant being *W.P.(C) No. 2830 of 22*, should be dismissed with exemplary cost.

15. Since Complainant's Advocate has not appeared, this court has further examined in detail the pleadings made in *W.P.(C) No. 2830 of 2022*,

wherein Complainant also challenged the order passed by Appellate Tribunal dated 27.05.2022 in Misc. Appeal No. 06 of 2018.

16. After perusing the contents of the said writ application, this court was unable to convince as to why Complainant approached this court by filing writ petition challenging the Appellate Order, when the Appellate Order was in favour of the Complainant setting aside the order of Municipal Commissioner.

17. Counter Affidavit filed by Complainant in *W.P.(C) No. 2671 of 2022* was also perused by this court and from the Counter Affidavit it appears that Complainant is again re-agitating its stand that alleged unauthorized construction made pursuant to original B.C. Case No. 359 of 1996 was illegally revised by officials of RRDA with connivance of the Builder.

18. Having heard respective counsels for the parties, this court is of the opinion that the order passed by Municipal Commissioner in U.C. Case No. 110/2016 is completely just and proper in the facts and circumstances of the present case and did not warrant any interference by Appellate Tribunal. As noted above, Municipal Commissioner, after considering the order passed by this Court in *W.P. (PIL) No. 1531 of 2011* dated 21.11.2016 and the order passed in *SLP No. 3800 of 2017* dated 09.05.2017, rightly held that the matter pertaining to regularization of sanction of Building Plan has been put at rest by order passed by this court and Hon'ble Apex Court.

The Municipal Commissioner further rightly held that the issue regarding connivance between officials of RRDA and Builder is subject matter of trial before Special Court, CBI and it is only upon conclusion of the trial, any action can be taken, if it is ultimately held that sanctioned plan was revised in a collusive manner.

19. Further, the Appellate Tribunal completely failed to appreciate the fact that this court, vide order dated 21.11.2016 passed in PIL, clearly held as under:-

> *"Having heard counsel for both the sides at length and looking to the facts and circumstances of the present case, it appears that this is not a Public Interest Litigation at all.*
>
> *2. Prayer made in this writ petition reads as under:-*
>
> *"For issuance of an appropriate writ, order, direction to the respondents to immediately remove the illegal and unauthorized structure being used as Godown and shop, constructed in the parking area of Chandralok apartment constructed after due approval of the plan by R.R.D.A. in B.C. Case No. 359/96 dated 29.06.1996 sanctioning G+3 storied building along with car parking in the basement of the building in the name and style of Chandralok apartment, as the illegal construction of Godown/shop has created nuisance to the resident of the apartment besides severe problem of parking of the vehicle in the prescribed place besides several problems in case of any vismajor and fire."*
>
> *3. It appears that respondent No.6 is the purchaser of the property. It further appears that plot, in question, is ad-measuring approximately an area of 383.48 sq. mt. Floor Area Ratio (FAR) i.e. maximum permissible construction in the area in question is 2.5. Thus, permissible maximum construction upon the plot in question is 383.48 sq. mt. x 2.5, which comes to 958.7 sq. mt.*
>
> *4. It is vehemently submitted by the counsel for the Ranchi Municipal Corporation that additional construction was at 0.39 perentage. Meaning thereby, additional construction is approximately 3.73 sq.mt.*
>
> *5. Thus the whole matter is revolving around only 3.73 sq. mt. additional construction at the highest.*
>
> *6. It is vehemently alleged by the counsel for respondent No.6, who is the purchaser of the aforesaid additional construction, that earlier also same orchestra was played by this petitioner and ultimately, Ranchi Regional Development Authority (RRDA) had regularized the said construction upon payment of Rs. 1,52,140/-.*
>
> *7. Thus looking to the nature of this petition, it appears that original petitioner has several allegations to be levelled against the purchaser of the property, who is respondent No.6. This respondent No.6 has already paid the consideration amount to the builder. Original builder has also paid penalty of Rs. 1,52,140/- to the RRDA. Now the property is within the territorial limits of Ranchi Municipal Corporation (RMC).*
>
> *8. Looking to the allegations and the nature of illegal construction and also looking to the earlier regularization orders and the payment of money already made to the original builder, we see no reason to entertain this writ petition as Public Interest Litigation. Even otherwise, this writ petition is of the year 2011. There is enough monitoring by this Court about the illegality of construction in the city of Ranchi. C.B.I. is given direction to investigate the matter about the illegality of construction. In several matters, charge sheet has been filed and few have been quashed and set aside by this Court in exercising of power under Section 482 Cr.P.C. Still inter se dispute between the so-called dissatisfied souls and so-called builders and purchasers are still going on in this city.*
>
> *9. Be as it may, the fact remains that in this case we do not want to further monitor the illegal construction in the city of Ranchi. Enough steps have been taken by the RMC and the RRDA. Now they are scrutinizing the plans with vigilant eyes and those few officers, who are in collusion with the builders, are also given notice.*
>
> *10. In view of these facts, there is no need of further monitoring of the illegal construction in the city of Ranchi. Hence, this Public Interest Litigation is hereby disposed of.*
>
> *11. All the interlocutory applications, preferred in this writ petition, are brought to an end because main writ petition is disposed of. If any person, who is applicant of the interlocutory application, wants to file Public Interest Litigation, he is at liberty to file it*

at his own risk with necessary details about the genuinity of the Public Interest Litigation, appropriate averments, allegations and annexures."

20. Even Special Leave Petition against the said order was dismissed in limine by the Hon'ble Apex Court and it is only thereafter that Complainant filed a complaint before Respondent-RMC alleging, inter alia, that map was sanctioned fraudulently. The Appellate Tribunal completely misconstrued the order dated 11.10.2017 passed in *W.P.(Cr.) No. 314 of 2011* by treating the said order, as if, this Court permitted the Complainant to again re-agitate the issue regarding sanction of Building Plan even after dismissal of PIL and SLP.

In fact, a perusal of the said order would clearly reveal that Interlocutory applications filed by Complainant was simply withdrawn by him to raise his grievance before appropriate forum and this Court did not make any observation on merits in the Interlocutory application filed by Complainant. The said order, for ready reference, is quoted herein-under:-

> ***"****Mr. P.P. Chatterjee, learned counsel for the proposed intervenor seeks permission to withdraw I.A. No. 7365 of 2017 in W.P.(Cr.) No. 314 of 2011, I.A. No. 7367 of 2017 in W.P.(Cr.) No. 2011 of 2012 & I.A. No. 7368 of 2017 in Cr.M.P. No. 3219 of 2013 with a liberty to raise his grievance before the appropriate forum.*
> *Permission is accorded.*
> *I.A. Nos. 7365 of 2017, 7367 of 2017 and 7368 of 2017 in respective cases are permitted to be withdrawn with the aforesaid liberty.*
> *Let these matter be listed on 07.11.2017****."***

21. Having regards to the admitted fact, this Court is of the firm opinion that the Complainant, having lost up to Hon'ble Supreme Court, is abusing the process of law by filing one or the other complaints before the authorities merely because there exists some dispute between Complainant and co-resident. Ordinarily, this Court would have imposed exemplary cost upon the Complainant for abusing the process of court; however, taking a lenient view the court did not impose cost upon the Complainant.

22. In view of cumulative facts and circumstances mentioned hereinabove, order dated 27th May, 2022 passed in Misc. Appeal No. 06 of 2018 by Appellate Tribunal, RRDA, Ranchi is, hereby, quashed/set aside and order passed by Municipal Commissioner, RMC dated 04.01.2018 in U.C. Case No. 110 of 2016 is restored.

23. With the observations/directions indicated hereinabove, both these petitions stand disposed of. Pending I.As., if any, also stand closed. However, there shall be no order as to cost.

(Deepak Roshan, J.)

Jharkhand High Court at Ranchi
Dated:-16 /12/2024
Amardeep/
AFR/