

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.616 of 2023

In
Civil Writ Jurisdiction Case No.5026 of 2013

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Smt. Savitri Devi Wife of Shri Ganesh Singh Resident of Mohalla -
Kaithwalia, Wards no. 7, P.S. - Gopalganj, District - Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development, Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development, Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Nagar Parisad, Gopalganj through its Executive Officer.
5. The Executive Officer, Nagar Parisad Gopalganj.
6. Prashant Kumar Ray son of Late Ramayan Ray Resident of Mohalla - Kaithwalia Police Station - Gopalganj District - Gopalganj.

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Umesh Kumar Singh, Advocate
For the State	:	Mr. Yogendra Prasad Sinha, AAG-7
For Res. Nos.4 & 5	:	Mr. Rajesh Ranjan, Advocate
For Res. No.6	:	Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 18-08-2025 The present appeal has been filed under Clause 10 of Letters Patent of Patna High Court Rules against the order dated 16.03.2023, rendered by the learned Single Judge in C.W.J.C. No.5026 of 2013, whereby the learned Single Judge has asked Respondent No.5 to demolish the illegal construction work carried out by the present appellant.

2. Heard Mr. Umesh Kumar Singh, learned counsel for



the appellant, Mr. Yogendra Prasad Sinha, learned AAG-7 for the State, Mr. Rajesh Ranjan, learned counsel for the Nagar Parishad, Gopalganj as well as Mr. Ranjeet Kumar Pandey, learned counsel appearing on behalf of Respondent No.6.

3. Learned counsel for the appellant would mainly contend that the present appellant has carried out the construction work after submitting the plan before the respondent authority. The said plan was approved by the respondent authority. However, it has been alleged by the present Respondent No.6/original writ petitioner that the present appellant has carried out the construction in deviation of the approved plan/map. It is further submitted that pursuant to the complaint/application submitted by the original writ petitioner, the respondent authority passed an order in the year 2011, whereby it has been observed that the present appellant is required to demolish the illegal construction carried out by her and further a penalty of Rs.1,25,000/- was also imposed.

4. Learned counsel for the appellant further submits that Respondent No.6/original writ petitioner filed the petition before this Court in the year 2013 and the learned Single Judge by way of impugned order dated 16.03.2023 directed the respondent authority to demolish the illegal construction carried



out by the present appellant. The appellant has, therefore, filed the present appeal.

5. Learned counsel would submit that the appellant and her family members are residing in the said house since the year 2007 and, if the impugned order passed by the learned Single Judge is implemented, they will suffer loss and hardship. It is also submitted that the appellant has also paid Rs.1,25,000/- by way of penalty which has been imposed by the respondent authority. It is further submitted that the appellant is ready and willing to submit before the authority with regard to regularization of the so called illegal construction carried out by the appellant and till the said request of the appellant is decided by the respondent authority, the stay, as prayed for in the present appeal, be granted.

6. On the other hand, learned counsel appearing for the private respondent/original writ petitioner has vehemently opposed the present appeal. He would mainly submit that, admittedly, the appellant has carried out the illegal construction of 1110 Sq. ft., whereas the plan was approved for construction of 650 Sq. ft. only. The original writ petitioner, therefore, submitted an application before the respondent authority and the respondent authority has passed an order in the year 2011 by



which the present appellant was directed to demolish the said illegal construction and penalty of Rs.1,25,000/- was imposed. It is also pointed out by learned counsel for the private respondent/original writ petitioner that the appellant has never challenged the said order by filing a writ petition before this Court or by filing appeal before the appellate authority. Learned counsel, therefore, urged that the learned Single Judge has not committed any error while passing the impugned order. He, therefore, urged that the present appeal be dismissed.

7. Learned counsel appearing on behalf of the respondent authorities has also opposed the present appeal. He would mainly submit that the respondent authority passed an order on 23.06.2011 as the present appellant has carried out the illegal construction. The said order has not been challenged by the present appellant. It is further submitted that, now, the original writ petitioner has filed a contempt proceedings before the learned Single Judge and the same is still pending. Learned counsel urged that this appeal be dismissed and the authority will implement the order passed by the learned Single Judge.

8. Having heard learned counsel for the parties and having gone through the materials placed on record, it transpires that the present appellant submitted an application for



sanctioning of the plan for construction of her house. The request was made for grant of permission for construction of 650 Sq. ft. However, it is not in dispute that the appellant has constructed 1110 Sq. ft. The original writ petitioner, therefore, submitted an application before the respondent authority and pointed out the aforesaid illegality committed by the present appellant. The respondent authority, therefore, passed an order on 23.06.2011 and thereby directed the present appellant to demolish the illegal construction carried out by the appellant. The respondent authority also directed the appellant herein to pay Rs.1,25,000/- by way of penalty pursuant to the provisions contained in Section 315 of the Bihar Municipal Act, 2007. It further transpires from the record and as contended by learned counsel for the appellant, the appellant has already paid Rs.1,25,000/-. At this stage, it is pertinent to note that the appellant has not challenged the order dated 23.06.2011, passed by the respondent authority and the impugned order has been passed by the learned Single Judge in the writ petition filed by the present private respondent for implementation of the order dated 23.06.2011. It further transpires that till today, the appellant has not submitted any application before the respondent authority for regularization of the construction carried out by her. Thus, the fact remains that till



today, the appellant herein has not challenged the order dated 23.06.2011 passed by the respondent authority.

9. In view of the aforesaid facts and circumstances of the present case, we are of the view that the learned Single Judge has not committed any error while directing the respondent authority to implement the order dated 23.06.2011. We are also of the view that no interference is required in the impugned order, looking to the facts of the present case.

10. Accordingly, the appeal stands dismissed.

11. In view of dismissal of the appeal, I.A. No. 02 of 2024, filed for grant of stay of the order dated 16.03.2023, passed in C.W.J.C. No.5026 of 2013, stands disposed of.

12. However, it is open for the appellant to submit an application before the respondent authority for regularization of the construction which has been carried out by her. If such an application is made, the respondent authority shall decide the same in accordance with law.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

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