

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.562 of 2024

In

Civil Writ Jurisdiction Case No.15963 of 2023

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The Municipal Corporation, Chapra, Saran through its Municipal Commissioner, namely Sumit Kumar, aged about 31 years, Male, Son of Sri Sushil Kumar, Residet of C/o Late Sagar Lal, Sikandra Bazar, Near Sikandra Thana , P.S.- Sikandra, District - Jamui.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
4. The Additional Chief Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
5. The Assistant Inspector General, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
6. The Collector, Saran at Chapra.
7. The Additional Collector, Saran at Chapra.
8. The Junior Engineer, Municipal Corporation, Saran, Chapra.
9. Shyam Chandra Sharma, Son of Late Ramnaresh Sharma, Resident of Mohalla - Dakbunglow Road, Dahiyanwa, P.S.- Chapra Nagar, Chapra, District - Saran. 80113, Bihar.

... .. Respondent/s

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Appearance :



For the Appellant/s : Mr. Indu Bhushan, Advocate
For the State : Mr. P.K. Shahi, AG
Mr. Yogendra Pd. Sinha, AAG-7
For the Resident No. 9 : Mr. Mrigank Mauli, Sr. Advocate
Mr. Pratik Kumar Sinha, Advocate
Mr. Sanket, Advocate
Mr. Navin Kumar Singh, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 30-01-2025

We have heard Mr. Indu Bhushan, the learned Advocate for the appellant and Mr. Mrigank Mauli, the learned Senior Advocate for the respondent No. 9. We have also heard Mr. P.K. Shahi, the learned Advocate General for the State.

2. The challenge in this appeal is to the judgment dated 01.04.2024 passed in C.W.J.C No. 15963 of 2023.

3. The respondent No. 9 had approached this Court for a direction to the Chapra Municipal Commissioner to sanction the Building Plan/Map for



construction of a residential-cum-commercial building on his plot of land, the details of which were provided in the writ petition as in the absence of sanctioned map, the respondent No. 9 was not able to construct his building and, thus, was deprived of his inalienable and inviolable rights guaranteed to him under the Constitution like any other citizen.

4. From the discussions made in the judgment impugned, a very disquieting feature has emerged that the entire city of Chapra is situated on *topo* land, meaning thereby that no survey has been done on such land. Though the State Government has notified the township of Chapra under the Chapra Municipal Area about a hundred years ago and since then, citizens are paying municipal rent to the Corporation after creation of the municipal holdings in their respective names, the demand of the Corporation from the appellant for land possession certificate and other documents pertaining to the said land is a



condition which is impossible to fulfill.

5. Considering this aspect of the matter, the learned Single Judge, justifiably, took the view that for the fault of the State in not surveying the land up till now, the rights of respondent No. 9, or for that by anybody else, could not be put on hold for an indefinite period.

6. Under the aforesaid circumstances, the order passed by the Chapra Municipal Commissioner, refusing to sanction the Building Plan/Map for construction of the proposed building, was set aside. While doing so, the learned Single Judge had also taken note of the fact that it would be sufficient if such documents are demanded from the respondent/writ petitioner, which would demonstrate that the land belongs to him over which construction could be carried out in accordance with the building rules and by-laws.

7. The afore-noted fact, *viz.*, the entire city of Chapra being *topo* land was confirmed by the learned



Advocate General during the proceedings of the writ petition. The process to rectify the same is afoot.

8. Considering these aspects of the matter, we do not find any reason to interfere with the order passed by learned Single Judge.

9. The appeal is without merits and is, therefore, dismissed.

10. Interlocutory application/s, if any, also stands disposed off.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Manoj/Praveen-II

AFR/NAFR	NAFR
CAV DATE	NA
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