

(2020) 01 PAT CK 0342

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 15378 Of 2019

Digvijay Singh

APPELLANT

Vs

Patna Municipal Corporation And Ors

RESPONDENT

Date of Decision : 23-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0342

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Ajay Kumar Sinha, Rajeev Kumar Sinha, Prabhakar Singh, P K Shahi, Rohitabh Das

Final Decision : Disposed Of

Judgement

1. Heard Mr. Ajay Bihari Sinha learned counsel, along with Mr. Aditya Narayan Singh, learned counsel for the petitioner; Mr. Prabhakar Singh, learned counsel for the Patna Municipal Corporation (hereinafter referred to as the 'Corporation'); Mr. PK Shahi, learned senior counsel along with Mr. Rohitabh Das, learned counsel for the respondent no. 5 and learned AC to AAG 7 for the State.

2. The petitioner has filed the writ petition praying for the following reliefs:

"(i) For issuance of appropriate writ/direction upon respondent to demolish construction made and being made by the respondent no. 5 in contravention of order dated 06.03.2019 passed by the Respondent no. 1 in Vigilance Case no. 31B/2018 (Annexure-P/4)

(ii) For issuance of appropriate writ direction upon concerned respondents to take immediate action on the complaint dated 15.06.2019 to the respondent no. 2 by which the petitioner has reported construction being made by the respondent no. 5 in contravention of the order dated 06.03.2019 (Annexure-P/4).

(iii) For issuance of appropriate writ direction upon the respondents to take all measures for compliance of the order contained in Annexure-P/4."

3. Various orders have been passed in the present case and finally the position today is that in terms of the previous orders, the Corporation has restarted the earlier vigilance case filed against the respondent no. 5, which is still pending. Further, in terms of the earlier orders, the premises under dispute belonging to the respondent no. 5 was sealed, except for a portion which was allowed to be retained by him for use by his family.

4. The parties have filed their response in the present case. However, the Court does not propose to go into the same as basically it relates to factual aspect and also is covered by the provisions of the Bihar Municipal Act, 2007. Once the Commissioner of the Corporation is now to look into all aspects relating to the matter, for which a formal proceeding is already underway, the Court does not find any reason to keep the writ petition pending. Further, the main purpose of the writ petition, was to make the authorities sensitive to their responsibility to take cognizance of a complaint made on behalf of the petitioner with regard to there being violation in the building constructed by the respondent no. 5. The same has been served.

5. In view thereof, with consent of learned counsel for the parties, the writ petition stands disposed off with the observation that the parties shall cooperate in the proceeding before the Commissioner of the Corporation. The same shall be taken to its logical conclusion after giving due opportunity of hearing to all sides. They shall further be permitted to supplement their contentions in such proceedings by bringing on record materials/documents as they may deem appropriate. The Commissioner of the Corporation shall thereafter pass a detailed and reasoned order. The same shall be communicated to the parties concerned. Thereafter, it shall be open to the parties to move further in the matter, in accordance with law, before the appropriate forum.

6. The Court would only clarify that it has not gone into the rival merits. Whatever observations have been made in the previous orders were for the purposes of considering the present writ application to the extent as indicated above but shall not be taken to be final and conclusive finding on any particular issue of fact. The same is left open to the Commissioner of the Corporation to decide, based upon the assistance and materials which may be produced before him by the parties concerned.

7. In the meantime, status quo in terms of the earlier orders passed by the Court shall continue.

8. In view of the humanitarian angle involved and the fact that the respondent no. 5 and his family are living in the premises, the Court would modify its earlier order of sealing to the extent that one additional living room with a washroom, being contiguous to what is presently in occupation of the respondent no. 5, be also unsealed for his personal use.