

(2000) 07 PAT CK 0005
In the Patna High Court
Case No : C.W.J.C. No. 6378 of 1999

Kumar Vijoy Singh and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 03-07-2000

Acts Referred:

Citation : (2000) 4 PLJR 794

Hon'ble Judges : Ravi S. Dhavan, C.J;Aftab Alam, J

Bench : Division Bench

Advocate : Chandra Bhushan Das, for the Appellant; G.P. Roy for State, for the Respondent

Judgement

1. This writ petition has been filed by M/s Vijoy Singh and Rameshwar Prasad Sahu complaining that there is a colony which has been planned and executed by the Bihar State Housing Board, Patna known as Hanuman Nagar. The contention is that this was a planned colony developed by a public sector housing corporation. There have been encroachments on the public road which is east of the colony constructed by the Bihar State Housing Board, Patna. The High Court had issued notice on the petition. The fact that on the public road, east of the colony as well as on the flanks of the road constructions have been made, was accepted by the State respondents. The defence being offered in the writ petition is that those who had occupied the public road with construction thereon were already under a notice to vacate the encroachment and that an alternative area was being located for the occupiers. It is relevant to know as to who the occupiers are ? It is on record that the District administration had shifted a police station on the public road. It was being explained to the Court that what was occupied was in fact a community hall. It was further being explained that the community hall was on the road side. The question is what is a public road ?

2. The larger of the buildings on the public road measures 42'6"/25'6". What is adjoining and on the side of the flanks of the road i.e. the road side is a building measuring 8'6"/3'6". The respondents claim that this was a community hall.

Would a building which is virtually the length of a man with his hands raised up, good for a community hall ? Whether the entire community of the housing colony will be able to transact its community business in a space less than 30 square feet. The existence of the main building which was on the road itself cannot be explained.

3. The protection of the road, is a law which has been settled by the Supreme Court. This Court does not have to emphasise that nothing may come on the road or its sides, the path and the purpose of a public road is passage only. Two decisions of the Supreme Court would suffice. One is Municipal Board, Manglaur Vs. Sri Mahadeoji Maharaj, and the other State of Uttar Pradesh Vs. Ata Mohd., .

4. After these decisions had been brought to the notice of learned Additional Advocate General No. 3 Mr. Ganga Prasad Roy, rather than submit, a request was made to adjourn the matter to advise the respondents.

5. On 30 June, 2000, Mr. Prabhat Kumar Singh learned State counsel made submission before the Court that the offending structures are in the process of being removed. Today learned Additional Advocate General No. 3 has made a statement on the basis of instructions from the District Magistrate, Patna that both the buildings on the road and the road-side have been demolished and removed.

6. In the circumstances, the public road as planned for Hanuman Nagar Housing colony is free for being used for the purposes of passage. The petition succeeds. As the unauthorised constructions have been removed by the State respondents there will be no order as to costs.