
(2019) 12 PAT CK 0106

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 4647 Of 2019

Lalan Singh

APPELLANT

Vs

State Of Bihar Through The Principal Secretary And Ors

RESPONDENT

Date of Decision : 10-12-2019

Acts Referred:

Citation : (2019) 12 PAT CK 0106

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Abhishek, Vijay Shankar Upadhyay, Rajiv Roy

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.

2. The petitioner has filed the present writ application seeking quashing of the letter dated 13.02.2019 issued by the Municipal Executive Officer, Nagar Parishad, Sasaram, whereby the petitioner has been directed to correct/remove the construction made of his house, which is at variance with the sanctioned map. It appears from the petitioner's own pleadings that a map was sanctioned by the Nagar Parishad for construction of house over the land in question on 15.03.2017. It transpires that when he started construction, on an information received from a private person, the Parishad noticed that the petitioner was making construction, deviating from the sanctioned map. This led to passing of an order dated 23.08.2018 by the Executive Officer, Nagar Parishad, Sasaram, imposing a penalty of Rs.58,085/- for making illegal construction over the land in question, in violation of the sanctioned map. From the communication dated 24.08.2018, it appears that whereas the dimension of the sanctioned building plan was 25'x57', the petitioner was found making construction over an area measuring 55'x69.6'. The Parishad noticed that the petitioner was thus making construction over an area of 29.04 Square meter, more than what was sanctioned and, accordingly, the Executive Officer, imposed a penalty of

Rs.58,085/-. The petitioner did not question the said decision of the Nagar Parishad and deposited the penalty amount of Rs.58,085/-. It appears that after having deposited the said amount of penalty, the petitioner has presumed that the Council has condoned the deviation of 29.05 square meter after imposing a penalty. Such presumption, in my view, is totally misplaced. It is the petitioner's case in the writ application that though he has applied for sanction of revised map after payment of penalty, the Nagar Parishad has not passed any order and has come out a notice dated 13.02.2019 asking him to remove the structure over and above what was sanctioned.

3. Learned counsel appearing on behalf of the petitioner has submitted that once the petitioner deposited the penalty amount for making construction over and above, the sanctioned map, it was obligatory for the Parishad to have sanctioned revised map, taking into account the penalty already paid by him and the Nagar Parishad ought not to have issued the said notice.

4. The petitioner's case is completely misconceived. No construction can be made beyond the sanctioned plan unless duly authorized and permitted by the local body. The deviation can be allowed only within permissible limits.

5. A decision in this respect can be taken by the Parishad, in accordance with the procedure prescribed under the statutory provisions. The payment of amount of penalty by the petitioner cannot be treated to be in lieu of illegal construction done by him in the matter of construction of the house in question.

6. This writ application has no merit, and is, accordingly, dismissed.