

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.245 of 2025
In
Civil Writ Jurisdiction Case No.2140 of 2022

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Rohit Kumar @ Rai Rohit Sharma Son of Rai Sunder Deo Sharma, Resident of Mohalla - Ward No. 32, Agarwa, P.O. - Agarwa, P.S. - Motihari Town, District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The District Magistrate, East Champaran, Motihari.
3. The Executive Officer, Nagar Parishad, Motihari, East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pawan Kumar, Advocate
Mr. Dhaneshwar Vashist, Advocate
Ms. Diksha, Advocate
Mr. Raghav, Advocate
For the Respondent/s : Mr.Surendra Prasad Singh, AAG-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-09-2025

The appellant has assailed the order of the learned Single Judge dated 20.01.2025 passed in CWJC No. 2140 of 2022.

2. The learned Single Judge after recording certain dates and events from para 3 to 10 of the order proceeded to dismiss the writ petition.



3. Moot question for consideration in the present *lis* is whether the Executive Officer, Nagar Parishad, Motihari, East Champaran, is empowered to abruptly stall the ongoing construction of a public building or not? which was undertaken by the contractor namely, Rohit Kumar-appellant or not? It is necessary to reproduce Annexure-6 to the writ petition, order reads as under:-

"कार्यालय नगर परिषद मोतिहारी

आदेश

पत्रांक 2314

श्री रोहित कुमार उफ राय रोहित शर्मा,
पिता- राय सुन्दरदेव शर्मा,
मुहल्ला- अगरवा, मोतिहारी
श्री प्रशांत कुमार काश्यप,
पिता- श्री उमाशंकर सिंह,
ग्राम+पो०- बाराशंकर, थाना- पताही,
जिला- पूर्वी चम्पारण ।

विषय: सदर अस्पताल के नजदीक जय प्रकाश मार्केट, राजेन्द्र मार्केट एवं कर्पूरी मार्केट के छत के उपर बन रहे भवन का कार्य को बन्द करने के सम्बन्ध में।

दिनांक 3/8/18, मोतिहारी

उपरोक्त विषय के सम्बन्ध में कहना है कि दिनांक 02.07.2018 को जिलाधिकारी, महोदय द्वारा सदर अस्पताल के भ्रमण के दौरान सदर अस्पताल के नजदीक जय प्रकाश मार्केट, राजेन्द्र मार्केट एवं कर्पूरी मार्केट के छत के उपर बन रहे भवन का कार्य को बन्द करने का आदेश दिया गया है।

अतएव उपरोक्त आदेश के आलोक में आपको आदेश दिया जाता है कि सदर अस्पताल के नजदीक जय प्रकाश मार्केट, राजेन्द्र मार्केट एवं कर्पूरी मार्केट के छत के



उपर बन रहे भवन के निर्माण कार्य को जिला
पदाधिकारी, पूर्वी चम्पारण, मोतिहारी के अगले
निर्देश तक बन्द रखें ।

कार्यपालक पदाधिकारी
नगर परिषद मोतिहारी"

4. Learned Single Judge has not appreciated abruptly stalling the construction without assigning any valid reason. Even after a lapse of six years, the Executive Officer, Nagar Parishad, Motihari, East Champaran, has not taken any action to pass final order pursuant to Annexure-6 cited *supra*. In other words, appellant-Rohit Kumar has invested huge amount of money for the purpose of construction of public building.

5. In the light of these facts and circumstances, the appellant has made out a case so as to interfere with the order of the learned Single Judge dated 20.01.2025 passed in CWJC No. 2140 of 2022, on the sole ground that learned Single Judge has committed error in not apprising the impugned order dated 03.08.2018 vide Annexure-6, is without application of mind and it is not with reference to any statutory provision. Accordingly, they are set aside.

6. The Executive Officer, Nagar Parishad, Motihari, East Champaran, is hereby directed to evaluate the construction work undertaken by the appellant-Rohit Kumar under the supervision of technical persons and thereafter



determine what is the amount appellant-Rohit Kumar has invested on the construction and proceed to pass order. On such determination of amount, the appellant-Rohit Kumar is entitled to interest @ 8 per cent per annum. The same shall be settled along with the invested amount read with interest within a period of four months from the date of receipt of this order.

7. The appellant is entitled to litigation cost throughout the litigations and it is quantified at Rs. 50,000/-. Cost shall be paid by the Executive Officer, Nagar Parishad, Motihari, East Champaran to the appellant within 8 weeks from today.

8. Accordingly, LPA stands allowed.

(P. B. Bajanthri, CJ)

(Alok Kumar Sinha, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.09.2025
Transmission Date	NA

