

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9211 of 1993

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1. Awdhesh Pd. Sinha
2. Harendra Pd. Sinha
3. Kaushal Kishore Sinha
All sons of late Smt. Subhadra Devi, and late Dr.A.P.Sinha, R/O
Masaurhi, P.S. And P.O. Masaurhi, District- Patna

.... Petitioners

Versus

1. The Vice Chairman, P.R.D.A., Mourya Lok, Patna
2. The Secretary, P.R.D.A., Mourya Lok, Patna
3. The State Of Bihar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Amresh Kumar Singh
Mr. Rajesh Kumar Singh
Mr. Ranjay Kumar Singh
Mr. Ajay Kumar Singh
For the Respondent/s : Mr. Manu Shankar Mishra
Mr. Ajay Prasad
Mr. Sanjay Prakash Verma

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

12 29-01-2015 Heard learned counsel for the parties.

Let it be noted that the prayer of the petitioners in this writ
application reads as follows:

“That the instant application is for issuance of a writ in the nature of a writ of mandamus commanding and directing the respondent authorities to execute the deed of lease for the land for which the petitioner had offered highest bid and offer was duly accepted by the respondents and issuance of the further direction to give the possession of the land bearing plot no.14C in Block A of Rajendra Nagar to the petitioner, who got it, in auction held on 29.1.1963 through the Patna Improvement Trust (now the P.R.D.A. Patna has its domen and control over

the same). On account of aversion to and apathy of the respondents towards the petitioner in doing so even in teeth of the express provisions meant for the above grievance.”

From reading of the writ application it would transpire that way back in 1963 the mother of the petitioners Late Subhadra Devi was offered a plot by Patna Improvement Trust by its letter dated 8.2.1963. In the said letter while the mother of the petitioners was asked to deposit certain amount it was also made clear to her that the delivery of possession of the plot could be given to her only after the encroachment over the would be removed by the Patna Municipal Corporation. As the turn of events could be the plot in question could not become vacant and ultimately Patna Improvement Trust by resolution dated 24.8.1964 had taken the following decision:

“Considered the question of delivery of possession of the Domkahana land at Rajednra Nagar to the successful bidders. Resolved unanimously that the delivery of possession of the vacant plots be given to the successful bidders. But in case of such plots, which are not vacant at present the bidders be asked to wait till vacation of the land or in the alternative to back their money.”

As a matter of fact when a person similarly situated like the mother of the petitioners, namely, Ram Charitar Prasad Singh had moved this Court assailing the aforementioned resolution with

a consequential relief of seeking a direction for handing over the plot his writ petition, C.W.J.C.No. 384/1968 was not held to be maintainable. The Division Bench had in this regard held as follows:

“As the right of possession which the petitioners claims is based on a contract, it is difficult for this Court in exercise of writ jurisdiction to give adequate relief to the petitioner. Realizing that difficulty Mr. Mazhar Hussain, learned counsel appearing for the petitioner sought permission to withdraw this application. This application is accordingly permitted to be withdrawn.”

It would, thus, become clear that no writ petition could lie to enforce a pure and simple contractual right emanating from the letter of allotment. The resolution of Patna Improvement Trust way back in the year 1964 was very clear that either the plot could be handed over or the amount could be refunded. Today after lapse of more than 50 years it would be impossible for this Court to bring back the situation of the year 1963, especially when Patna Improvement Trust is no longer in existence and even its successor body P.R.D.A. has been abolished.

The Patna Municipal Corporation, which is successor in office as per the statute to Patna Improvement Trust and the P.R.D.A., however having been bound by the earlier resolution of Patna Improvement Trust can at best return the money to the legal

heirs of the mother of the petitioners.

Therefore, if the legal heirs of the mother of the petitioners would approach the authorities of Patna Municipal Corporation, the decision to refund the amount will be taken and the amount shall be paid. In view of the fact that such amount has remained in custody of Patna Improvement Trust and its successor body for a period of over 50 years, such amount will definitely be required to be refunded with simple interest at the rate of 9% per annum from the date of its deposit to the date of its refund.

If, however, the petitioners do not want to get the aforesaid amount with interest, as directed above, it will be always open for them to enforce the contractual right by filing a civil suit before competent civil court.

With the aforementioned observation/direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

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