

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2041 of 1993

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Anil Kumar, son of late Ram Charitar Prasad Singh, resident of Village-
Walipur, P.S.- Pipariya, District- Lakhisarai.

.... Petitioner/s

Versus

1. Patna Regional Development Authority through its Vice- Chairman,
Maurya Lok, P.S.- Kotwali, Town and District- Patna.
2. The State of Bihar
3. The Patna Municipal Corporation, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ansul, Advocate.

For the Respondent/s : Mr. Sanjay Prakash Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

21 30-01-2015 A prayer has been made for substitution of the sole writ
petitioner, who is said to have died on 02.01.2015.

2. Considering the facts that the right to sue still survives
to the heirs and legal representatives of the sole writ petitioner,
prayer made in I.A. No. 813 of 2015 is hereby allowed.

Re. CWJC No. 2041 of 1993:

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

*“....commanding the respondent to execute deed of lease for
the land for which the petitioner had offered highest bid and
the offer was accepted and issuance of the further direction
to give vacant possession of the aid land.”*

4. From reading of the writ application it would transpire
that way back in 1963 the father of the petitioner Late Ram

Charitar Prasad Singh was offered a plot by Patna Improvement Trust by its letter dated 31.01.1963. In the said letter while the father of the petitioner was asked to deposit certain amount it was made clear that the delivery of possession of the plot could be given to him after the site was cleared 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.”

5. As a matter of fact, the late father of the petitioner had, 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 bearing C.W.J.C.No. 384/1968 was not held to be maintainable. The Division Bench in its judgment dated 7.4.1969 (Annexure-4) 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.”

6. 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 of Patna Improvement Trust and the P.R.D.A., can at best be bound by the earlier resolution of Patna Improvement Trust dated 24.8.1964 and can be at best directed to return the money to the legal heirs of the father of the petitioner.

7. Therefore, if the legal heirs of the father of the petitioner would approach the authorities of Patna Municipal Corporation, the decision to refund the amount will be taken and the amount shall be paid to the concerned person in accordance with law. In view of the fact that such amount has remained in custody of Patna Improvement Trust and its successor bodies 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. If, however, the petitioner does not want to get such amount with interest, as directed above, it will be always open for him to enforce his contractual right by filing a civil suit before an appropriate civil court.

8. With the aforementioned observation, this application is disposed of.

9. I.A. NO. 4442 of 2009 stands disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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