

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12771 of 1999

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Binod Kumar son of Late Bhagwan Das Maruti Carriers opp. C.D.A. Building, PS-
Gandhi Maidan, District-Patna.

.... Petitioner/s

Versus

1. The Chairman, P.R.D.A., Moryalok, Patna
2. The Vice Chairman, P.R.D.A., Moryalok, Patna
3. The Estate Officer, P.R.D.A., Moryalok, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Anil Chandra and Ashok Kr. Pandey, Advs.

For the Respondent/s : Mr. R.P.Singh, Adv.

Mr. H.S.Himkar, Adv.

Mr. Pawan Kumar Mishra, Adv.

Mr. Sanjay Prakash Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-04-2015

Heard learned counsel for the petitioner and
learned counsel for the Patna Municipal Corporation.

In the present application, the prayer has been
made to restrain the respondents to enhance the price of the
land situated in Transport Nagar Patna from Rs. 5,52,000/- to
Rs. 6,48,000/-, for that, the petitioner had purchased the
brochure and paid the earnest money of Rs. 40,000/- through
the bank draft.

During the argument, the petitioner confined the
prayer to refund Rs.40,000/- which has been deposited by way
of earnest money along with the interest taking a plea that at
the time of purchase of brochure or agreement there was no
forfeiture clause indicating in failure to deposit the instalments in

due time, will entail to the forfeiture of the said amount.

This Court vide order dated 3rd April 2015, directed the Municipal Corporation for production of the original brochure for perusal of this Court. The Patna Municipal Corporation produced the original brochure and claimed, at the time of application, the brochure along with the additional attachment was handed over to every applicant, in clause 12 of the additional attachment, has mentioned the clause of forfeiture in failure to deposit instalment in due time and so much so, the petitioner was served the notices on different occasions for depositing the rest instalment but he did not respond to any of the notice served by the Corporation finding no other alternative, the Corporation accordingly, forfeited the earnest amount of Rs. 40,000/-.

Having heard the rival contentions of the parties, so far rise in price of plot is concerned, it depends on the attending facts and circumstances. The land was acquired through the Land Acquisition Act, sometimes some additional amount is required to be paid by the allottee of land on host of factors including the cost incurred in developing the area that might be a cause of increase of the cost of which was initially assessed by the authorities.

From the counter affidavit it appears that the respondents have given the reason for enhancement price of the

land.

So far forfeiture of earnest money is concerned, in clause 12 of brochure specifically provides, in the event of non-payment of instalment in due time, will result in forfeiture of the earnest money of the applicant. He has also produced the notices which were issued by the Estate Officer of P.R.D.A. on different dates asking the petitioner to comply the direction, even thereafter, the petitioner remain unmoved, the action of the respondents in forfeiting the earnest money cannot be said to be illegal act.

In the course of the argument, the petitioner has submitted that the additional document which has been produced before this Court was not handed over at the time of purchase of brochure which has been disputed by the counsel for the Municipal Corporation.

This disputed fact cannot be decided by this Court in the present writ application. This Court does not find any merit in the present case.

Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

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