

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3809 of 2014

With

I.A. No.1788 of 2014

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1. Shekhar Kumar Sharma.
 2. Gautam Kumar Sharma.

Both are sons of Late Nand Lal Sharma, resident of Mohalla - Puraniganj (Chhoti Mirjapur), P.S. Kashim Bazar, P.O. and District - Munger At present MIG House No.100, Lohia Nagar Housing Colony, P.O. Lohia Nagar, P.S. Kankarbagh, District – Patna.

.... Petitioner/s

Versus

1. The Bihar State Housing Board, Patna, through its Managing Director.
2. The Managing Director, Bihar State Housing Board, Patna.
3. The Estate Officer, Bihar State Housing Board, Patna.
4. The Executive Engineer, Patna Division, Bihar State Housing Board, Patna.
5. Manoj Kumar Jaiswal, son of Satya Narayan Jaiswal, resident of Flat No.104, Meena Apartment, Bahadurpur, at and District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Priya Pathak

For the Respondent/s : Mr. Anshuman Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-03-2015

Heard the parties.

The petitioners have questioned the order dated 30.1.2014 contained in letter no.810 of the Estate Officer, Bihar State Housing Board, Patna as contained in Annexure-7 to the writ petition whereby the allotment made in favour of the vendor of the petitioners bearing House No.M/100, Lohia Nagar, Kankarbagh, has been cancelled. This order dated 30.1.2014 passed by the Estate Officer is directed against the petitioners as well as the respondent no.5 who has separately questioned this order in CWJC No.3437

of 2014.

In so far as the present case is concerned these two petitioners purchased the plot in question from one Smt. Maya Acharjee vide a registered deed. Subsequently a portion of the said plot was sold by these two petitioners in favour of Manoj Kumar Jaiswal, the respondent no.5 herein and the petitioner in CWJC No.3437 of 2014. It is on account of alleged running of a hospital and construction of several floors as well as nuisance resulting therefrom that a Public Interest Litigation was filed giving rise to CWJC No.1778 of 2014. It is in the said Public Interest Litigation that the Managing Director appeared and admitted that there has been a lapse in issuing notice to these petitioners since no violation had been committed in so far as the present two petitioners are concerned. It was further informed that the violation had been done by Manoj Kumar Jaiswal.

A counter affidavit has been filed in the present writ petition and in paragraphs 11 and 12 it has been admitted that the notice incorrectly refers to these petitioners. The submission of the Managing Director stands recorded in the order of the Division Bench dated 8.5.2014 in CWJC No.1778 of 2014.

It is fairly admitted by Mr. Anshuman Singh, learned counsel appearing on behalf of the Housing Board that the notice

dated 30.1.2014 incorrectly includes the names of these two petitioners inasmuch as they have not found to be violating any clause of the agreement or the provisions of the Bihar State Housing Board Act and the Rules framed thereunder.

In view of the stand taken by the Housing Board the notice dated 30.1.2014 placed at Annexure-7 as well as the notice dated 22.2.2014 placed at Annexure- 9 to I.A. No.1788 of 2014 in so far as these two petitioners, namely, Gautam Kumar Sharma and Shekhar Kumar Sharma are concerned, cannot be upheld and to that extent the notices are set aside.

The writ petition is allowed. The interlocutory application stands disposed of.

(Jyoti Saran, J)

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