

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1784 of 2015

Sanjeev Kumar, Son of Sri Sidheshwar Sharma, Resident of Vill- Balipakar, P.O-
Paliganj, P.S-Paliganj, Distt.-Patna

.... Petitioner

Versus

1. The Housing and Urban Development Corporation Ltd. HUDCO Bhawan India Habitat Centre, Lodi Road, New Delhi-110003 through its Managing Director
2. The Regional Chief Housing and Urban Development Corporation Limited Maurya Lok Patna, P.S-Kotwali, Distt.-Patna.
3. Manager (Finance), Housing and Urban Development Corporation Limited Maurya Lok Patna, P.S-Kotwali, Distt.-Patna

.... Respondents

with

Civil Writ Jurisdiction Case No. 2887 of 2015

1. Ram Swarup Singh, Son of Shri Yamuna Singh, Resident of Flat No. C- 102, Shri Ganesh Vihar Apartment, Nehru Nagar Road No. 2, District Patna - 800 013.
2. Supriya Singh, Wife of Mr. Neeraj Ranjan, Resident of Flat No. 304-B, Shri Ganesh Vihar Apartment, Nehru Nagar, Road No. 2, District Patna - 800 013.
3. Nitu Kumari , Wife of Diwakar Prasad, Resident of Flat No. B- 302, Shri Ganesh Vihar Apartment, Nehru Nagar, Road No. 2, District Patna - 800 013
4. Abhisek Gaurav Son of Late Rajendra Kumar Choubey, Resident of Flat No. B- 103, Shri Ganesh Vihar Apartment, Nehru Nagar, Road No. 2, District Patna - 800 013.
5. Amit Kumar, Son of Shri Satya Narayan Kunwar Resident of Flat No. B-201, Shri Ganesh Vihar Apartment, Nehru Nagar, Road No. 2, District Patna - 800 013.

.... Petitioner/s

Versus

1. The Union of India through its Secretary, Ministry of Finance (Banking Division), North Block, New Delhi.
2. Debt Recovery Tribunal Bihar, Patna.
3. The Recovery Officer, Debt Recovery Tribunal, Bihar, Patna.
4. M/S Imperial Foundation through Shri Sanjiv Kumar, Manager Member, Third Floor, Kunwar Complex, Kankarbagh Main Road, Patna.
5. The Housing and Urban Development Corporation Limited HUDCO Bhavan India Habitat Centre, Lodi Road, New Delhi 110003 through its Managing Director.
6. The Regional Chief Housing and Urban Development Corporation Limited, 2nd Floor, Block B/2, Maurya Lok Complex, Patna, P.S. Kotwali, District Patna.
7. The Manager (Finance) Housing and Urban Development corporation Limited, 2nd Floor, Block B/2, Maurya Lok Complex, Patna, P.S. Kotwali, District - Patna.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 3380 of 2015

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1. Heera Lal Singh. S/o Sri Ramlakhan Singh. Resident of Flat No. 301, Block "C", Sri Ganesh Vihar Apartment, Gandhi Path, Nehru Nagar, P.S.- Patliputra Colony, District - Patna - 800013.
2. Smt. Sharda Kumari. W/o Late Girija Pd. Singh. Resident of Flat No. 201, Block "C", Sri Ganesh Vihar Apartment, Gandhi Path, Nehru Nagar, P.S.- Patliputra Colony, District - Patna - 800013.
3. Dhananjay Kumar. S/o Late Rajeshwar Sharma. Resident of Flat No. 203, Block "C", Sri Ganesh Vihar Apartment, Gandhi Path, Nehru Nagar, P.S.- Patliputra Colony, District - Patna - 800013.
4. Kumari Neelam Srivastava. W/o Amod Kr. Sinha. Resident of Flat No. 303, Block "C", Sri Ganesh Vihar Apartment, Gandhi Path, Nehru Nagar, P.S.- Patliputra Colony, District - Patna - 800013.
5. Bhupendra Narayan Singh. S/o Sri Jitendra Narayan Singh. Resident of Flat No. 204, Block "C", Sri Ganesh Vihar Apartment, Gandhi Path, Nehru Nagar, P.S.- Patliputra Colony, District - Patna - 800013.
6. Shovendu Kumar Verma. S/o Late Bhola Prasad Verma. Resident of Flat No. 104, Sri Ganesh Vihar Apartment, Gandhi Path, Nehru Nagar, P.S.- Patliputra Colony, District - Patna - 800013.
7. Vijay Kumar Sinha. S/o Late Laldev Prasad. Resident of Flat No. 302, Block "C", Sri Ganesh Vihar Apartment, Gandhi Path, Nehru Nagar, P.S.- Patliputra Colony, District - Patna - 800013.

.... Petitioner/s

Versus

1. Housing and Urban Development Corporation Limited (HUDCO) through its Managing Director, HUDCO Bhawan, India Habitat Centre, Lodhi Road, New Delhi 110003.
2. The Regional Chief, Housing and Urban Development Corporation Ltd. Maurya Lok, Patna, P.S.- Kotwali, District - Patna.
3. Manager (Finance) Housing and Urban Development Corporation Ltd., Maurya Lok, Patna, P.S.- Kotwali, District - Patna.
4. The Dy. Manager (Law). R/o House No.- 17, Manas Marg, Shivpuri, Patna - 800023.
5. Imperial Foundation, a partnership firm bearing Registration No. 11/07 having its Registered Office at R.B. Market, Ramnagari More, Ashiana, Digha Road, District - Patna represented through its Managing Partner Sri Sanjeev Kumar. S/o Sidheshwar Sharma. R/o Balipakar, P.O.- Paliganj, District - Patna at present resident at Flat No. 17, Kankarbagh Colony, P.S.- Kankarbagh, District - Patna.

.... Respondents

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Appearance :

(In CWJC No. 1784 of 2015)

For the Petitioners : M/s. Ajit Kumar Ojha,
Nutan Mishra, Advocates

For the Respondent
Nos.1,2 & 3 : M/s. Prashant Kumar,
Amaresh Kumar Sinha, Advocates

For the intervener : Mr. Manish Kumar No.2, Advocate

(In CWJC No. 2887 of 2015)

For the Petitioner : Mr. Kamal Nayan Choubey, Sr. Advocate

Mr. Ambuj Nayan Chaubey, Advocate

For the Respondent no. 1 : Ms. Kanak Verma, Advocate

For respondent

Nos.4 to 7

: M/s. Prashant Kumar,

Amaresh Kumar Sinha, Advocates

(In CWJC No. 3380 of 2015)

For the Petitioners : Mr. Siya Ram Shahi, Advocate

For the Respondent

Nos.1 to 4

: M/s. Prashant Kumar,

Amaresh Kumar Sinha, Advocates

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-03-2015

Writ applications have been filed for a direction to the HUDCO authorities to settle the dues of the petitioners and till then for stay of the auction sale.

However, as would appear from the previous order, the petitioners offered to clear the entire debt and, in such a situation, vide order dated 09.03.2015 they were granted liberty to file affidavit in this regard.

Affidavits have been filed today on behalf of the petitioner of C.W.J.C. No.1784 of 2015 who claims to be the builder of the concerned apartment and undertakes to liquidate the dues of the respondent financial institution, already brought on record as Annexure R/5, within two months from 09.03.2015 with a liberty to raise objection regarding discrepancies in accounting of the amount

already paid and not adjusted.

Learned counsel appearing for the HUDCO submits that there would be a difficulty because interest after 31st of March, 2015 on unpaid amount would also be payable by the petitioner at quarterly rest. In such a situation, the petitioners now agree to pay such interest also if the period is extended for three months, i.e, one quarter. Learned counsel for the HUDCO does not have any objection to that.

Accordingly, these writ applications are being disposed of with a direction to the petitioner/builder to pay the balance amount of Rs.47,74,909/- along with interest within a period of three months commencing from 1st of April, 2015 till 30th June, 2015. Till expiry of such period, there would be no attempt of auction sale of the concerned property. The petitioners would be at liberty to seek clarification regarding the alleged discrepancies in accounting of the amount. On that objection having been raised, HUDCO authorities would be required to respond to it immediately. However, it is made clear that the verdict of the Bank would be the final in the matter. That apart, the petitioner of C.W.J.C. No.1784 of 2015 would be at liberty to pay the aforesaid entire debt by alienating Flat Nos. C-401 and B-401 and Parking space BG-2 and CG-1 only on a condition that they are free from any encumbrance. This is further made clear that the aforesaid amount along with the interest would be the final amount

which is to be paid by the petitioner and the Bank would not charge any legal expenses or other expenses in this matter. In case, the petitioner fails to comply its own undertaking and direction of this Court contained in this order or the order dated 09.03.2015, in such a situation, the HUDCO would be at liberty to take action in accordance with law for realization of the amount which may become due as per its calculation etc. and in such case waiver of legal and other expenses would also not be available to the petitioner/builder.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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