

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1465 of 2012

IN

Civil Writ Jurisdiction Case No. 14286 of 2006

=====

Vijay Kumar S/O Shri Raushan Ram Resident Of Village- Agrer, P.O & P.S-
Kharari, District- Rohtas.

.... Appellant/s

Versus

1. The Administrator District Board, Rohtas.
2. Deputy Development Commissioner- Cum- Chief Executive Officer, District-
Board, Rohtas.
3. The District Engineer, District Board, Rohtas, Sasaram.
4. Shri Raju Paswan S/O Ram Pravesh Ram Bolia Road, C/O Dr. V.P. Singh,
Sasaram.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mrs. Rekha Prasad, Advocate

For the Respondent-

Zila Parishad : Mr. Ashutosh Ranjan Pandey, Advocate

Mr. Prabhat Ranjan Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 13-07-2015

Heard learned counsel for the parties.

2. This Letters Patent Appeal is directed against the order
of the learned Single Judge dated 24.07.2012 passed in CWJC No.
14286 of 2006 whereunder the said writ case has been dismissed as
petitioner-appellant did not choose to comply with the terms of the
allotment contained in letter No. 1201 dated 02.01.2006, Annexure-3.

3. It is submitted on behalf of the appellant that in terms
of the allotment letter dated 02.01.2006, Annexure-3, deposit of 50%

of the cost price of the shop in question was made within seven days and thereafter appellant was waiting for receiving the allotment letter so that the balance amount towards the cost price of the shop may be deposited, but neither the allotment letter nor any other letter could be received by him.

4. From the impugned order it, however, appears that a reminder was also issued to the appellant asking him to deposit the balance amount, but it is said that the said letter was received by his brother, who is on litigating terms with the appellant, he could not know about its contents.

5. The submission that reminder letter was received by the brother of the appellant, who is on litigating terms with him, could not be examined by the learned Single Judge and in our opinion rightly as in terms of the allotment letter itself 50% of the cost price was required to be deposited within seven days and the balance amount within two weeks from the date of receipt of the allotment letter.

6. Appellant having not complied with the terms of the allotment letter and subsequent letter received by his brother, I do not find any merit in the appeal, which is dismissed.

7. The Chief Executive Officer, Zila Parishad, Rohtas is,

however, directed to refund the earnest money as also the first installment deposited by the appellant towards the cost price of the shop in question, which has now been allotted to Respondent no.4.

8. Necessary refund be made within two weeks from today.

9. Appellant is directed to appear before the Chief Executive Officer, Zila Parishad, Rohtas to receive the refund, if not already received.

10. As we have not found any merit in the appeal, there is no occasion for us to condone the delay in filing the appeal.

11. I.A. No. 6153 of 2012 is also dismissed.

(V.N. Sinha, J.)

(Jitendra Mohan Sharma, J.)

Arjun/-

U			
---	--	--	--