

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.170 of 2015

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1. Shri Prakash Prasad Singh son of Shri Dowarika Prasad Singh, resident of- Rental Flat No. 121, Kankarbagh Colony, P.S.- Kankarbagh, District- Patna

.... Petitioner/s

Versus

1. The Chairman, Bihar State Housing Board, 6, Mangals Road, Patna
2. Managing Director, Bihar State Housing Board, 6, Mangals Road, Patna
3. The Estate Officer, Bihar State Housing Board, 6, Mangals Road, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Mishra

For the Respondent/s : Mr. Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 26-02-2015 A limited grievance has been raised by the petitioner in this writ application.

Heard Mr. Ajay Kumar, learned counsel for the petitioner and Mr. Rabindra Kumar Priyadarshi, learned counsel for the Bihar State Housing Board and its authority.

This writ petition has been filed questioning the order contained in letter No. 2520 dated 03.04.2014 whereby the Revenue Officer in purported compliance of the order passed by the Lok Adalat in C.W.J.C. No. 1411 of 2005 has ordered for refund of the earnest money of Rs. 15000/- along with statutory interest at the rate of 5 % per annum to the petitioner.

According to the petitioner, whereas the Bihar



State Housing Board had agreed before the Lok Adalat to refund the entire amount deposited by the petitioner along with statutory interest, it is by mis-interpretation of the consensual order passed by the Lok Adalat that now the Housing Board has turned around only to refund the amount to the extent of the earnest deposit made by the petitioner along with statutory interest relying upon Regulation 45 of the Bihar State Housing Board Regulations, 1983. He submits that once the order has been passed on consensus between the parties by the Lok Adalat, it binds the Housing Board to refund the entire amount deposited by the petitioner which is to the tune of Rs.2,90,000/- along with statutory interest which as per Regulation 45 would be 5% .

The argument of the petitioner is contested by Mr. Rabindra Kumar Priyadarshi, learned counsel for the Bihar State Housing Board. According to him since the petitioner had agreed to the disposal of the writ petition upon refund of the amount deposited along with statutory interest which in terms of Regulation 45 would only be the earnest deposit amount, the petitioner cannot now claim refund of the entire amount deposited by him and, hence, there is no infirmity in the order impugned.

I have heard learned counsel for the parties and perused the materials on record.



No doubt Regulation 45 of the Bihar State Housing Board Regulation 1983 which has also been quoted in the impugned order dated 03.04.2014 to read that “simple interest at the rate of 5 per cent will be payable on amount of earnest money deposited by the applicants, after the date of enforcement of this regulation. No interest will be payable on deposits made hereinbefore” but it is to be seen whether the import of the order of the Lok Adalat was as such.

The issue would also be whether the Housing Board having agreed before the Lok Adalat in C.W.J.C. No. 1411 of 2005 for refund of the entire deposit of the petitioner along with statutory interest, they can now take refuge under Regulation 45 or the order of the Lok Adalat would mean a refund with statutory interest on the entire deposit made by the petitioner.

While the Housing Board has tried to wriggle out of its obligation by relying upon Regulation 45 of the Regulation but, in my opinion, having given a consensus before the Lok Adalat for making refund of the entire deposit made by the petitioner along with statutory interest, even if the Housing Board relies upon Regulation 45 it can only be for the purpose of determining rate of interest. They cannot now resile from their consensus and undertaking given before the Lok Adalat and are

bound to refund the entire amount deposited by the petitioner which is to the tune of Rs.2,90,000/- along with statutory interest i.e. 5 per cent simple interest.

In the result, the Managing Director, Bihar State Housing Board is directed to comply with the directions of the agreed order passed in C.W.J.C. No.1411 of 2005 and refund the entire deposit of the petitioner with statutory interest at the rate of 5% positively within four weeks from the date of receipt/production of a copy of this order.

This writ application is allowed.

(Jyoti Saran, J)

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