

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.841 of 2012
IN
Civil Writ Jurisdiction Case No. 12217 of 1992

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The Bihar State Housing Board, Bihar, Patna, through its Managing Director, At 6, Mangles Road, P.S- Secretariat, District- Patna.

.... Appellant

Versus

1. Sita Devi, W/o Dev Narayan Singh, Resident of Gandhi Nagar, Bahadurpur Sector No.1, P.S- Sultanganj, Distt- Patna.
2. The Competent Authority-Cum- Second Officer, Patna City, Patna.
3. The Joint Secretary Cum Appellate Authority Building Construction & Housing Department, Government Of Bihar, Patna.
4. The State Of Bihar.

.... Respondents

with

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Letters Patent Appeal No. 364 of 2013

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The Bihar State Housing Board, Bihar, Patna through its Managing Director At 6, Mangles Road, P.S.- Secretariat, District- Patna

.... Appellant

Versus

1. Shri Nago Mistri, S/o Mathura Singh, At Self Dynamo's Shop, S.P. Verma Road, Patna, At Present Gandhi Nagar, Bahadurpur Sector No. 1, P.S.- Sultanganj, Dist.- Patna
- 1.A. Smt. Chinta Devi, W/o Nago Mistri, At Gandhi Nagar, Bahadurpur Sector No.1, P.S.- Sultanganj, Dist.- Patna
2. The Competent Authority-Cum-Second Officer, Patna City, Patna
3. The Joint Secretary Cum Appellate Authority, Building Construction & Housing Department, Government Of Bihar, Patna
4. The State Of Bihar

.... Respondents

with

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Letters Patent Appeal No. 505 of 2014
IN
Civil Writ Jurisdiction Case No. 12215 of 1992

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1. The Bihar State Housing Board, Bihar, Patna through its Managing Director, At 6, Mangles Road, P.S.- Secretariat, District- Patna

.... Appellant

Versus

- 1. Shri Chandeshwar Prasad Singh, Son of Bir Chand Singh, Resident of Mohalla-
Gandhi Nagar, Bahadurpur Sector No. 1, P.S.- Sultanganj, Dist.- Patna
- 2. Competent Authority-Cum-Executive Magistrate, Patna City, Patna
- 3. The Joint Secretary, Building Construction And Housing Department, Govt. of
Bihar, Patna
- 4. The State Of Bihar

.... Respondents

with

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Letters Patent Appeal No. 511 of 2014
IN
Civil Writ Jurisdiction Case No. 12213 of 1992

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The Bihar State Housing Board, Bihar, Patna through its Managing Director, At 6,
Mangles Road, P.S- Secretariat, District- Patna.

.... Writ Petitioner/Appellant

Versus

- 1. Jaidhari Pandey, Son of not known at Gandhi Nagar, Bahadurpur Sector No. 1,
P.S- Sultanganj, Distt- Patna.
- 2. The Competent Authority- Cum- Second Officer, Patna City, Patna.
- 3. The Joint Secretary, Building Construction and Housing Department,
Government of Bihar, Patna.
- 4. The State Of Bihar

.... Respondents/Respondents

with

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Letters Patent Appeal No. 512 of 2014
IN
Civil Writ Jurisdiction Case No. 12216 of 1992

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The Bihar State Housing Board, Bihar, Patna through its Managing Director, At 6
Mangles Road, P.S- Secretariat, District- Patna.

.... Petitioner/Appellant

Versus

- 1. Sidheshwar Pandit, Son of Siya Pandit,
- 1.A Ramashish Pandit, Son of Siya Pandti, Both Residents of Gandhi Nagar,
Bahadurpur Sector No. 1, P.S- Sultanganj, Distt- Patna.
- 2. The Competent Authority- Cum- Second Officer, Patna City, Patna.
- 3. The Joint Secretary, Building Construction And Housing Department,
Government Of Bihar, Patna.
- 4. The State Of Bihar.

.... Respondents/Respondents

with

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Letters Patent Appeal No. 509 of 2014
IN
Civil Writ Jurisdiction Case No. 12218 of 1992

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The Bihar State Housing Board, Bihar, Patna through its Managing Director At 6,
Mangles Road, P.S. Old Secretariat, District - Patna

.... Petitioner/Appellant

Versus

1. Sukhalal Pandit, Son of name not known, Residents of Gandhi Nagar, Bahadurpur Sector No.1, P.S. Sultanganj, Distt. - Patna
2. The Competent Authority, Patna City, Patna
3. The Joint Secretary, Building Construction and Housing Board Department, Government of Bihar, Patna
4. The State Of Bihar

.... Respondents/Respondents

with

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Letters Patent Appeal No. 499 of 2014
IN
Civil Writ Jurisdiction Case No. 12219 of 1992

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The Bihar State Housing Board, Bihar, Patna through its Managing Director At 6,
Mangles Road, P.S. Old Secretariat, District - Patna

.... Petitioner/Appellant

Versus

1. Shri Narayan Chaudhary, Son of Late Malahi Chaudhary Resident of Mohalla - Mahatma Gandhi Nagar, Bahadurpur Sector No. 1, P.S. Sultanganj, Distt. - Patna
2. Competent Authority - Cum - Second Officer, Patna City, Patna
3. The Joint Secretary - Cum - Appellate Authority, Building Construction and Housing Department, Govt. of Bihar, Patna
4. The State Of Bihar

.... Respondents/Respondents

with

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Letters Patent Appeal No. 541 of 2014
IN
Civil Writ Jurisdiction Case No. 10920 of 1992

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The Bihar State Housing Board, Bihar, Patna through its Managing Director At 6,
Mangles Road, P.S. Old Secretariat, District - Patna

.... Petitioner/Appellant

Versus

1. Ganesh Pandit
2. Rameshwar Pandit

- 3. Kamlesh Pandit, All Sons of Sheo Nandan Pandit Resident of Mohalla - Gandhi Nagar, Bahadurpur Sector No. 1, P.S. Sultanganj, Distt. - Patna
- 4. Competent Officer - Cum - Executive Magistrate, Patna City, Patna
- 5. The Joint Secretary Cum Appellate Authority, Building Construction And Housing Department, Govt. of Bihar, Patna
- 6. The State Of Bihar

..... Respondents/Respondents
with

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Letters Patent Appeal No. 514 of 2014
IN
Civil Writ Jurisdiction Case No. 12211 of 1992

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The Bihar State Housing Board, Bihar, Patna through its Managing Director At 6, Mangles Road, P.S. Old Secretariat, District - Patna

..... Petitioner/Appellant
Versus

- 1. Ramji Pandit
- 2. Sukhdev Pandit
- 3. Dewaria, Daughter of Late Ganauri Manjhi
- 4. Jangalia, Son of Late Ganauri Manjhi
- 5. Gudia, Daughter of Late Ganauri Manjhi
- 6. Bandhu Manjhi, All Residents of Mohalla- Gandhi Nagar, Bahadurpur, Sector No. 1, P.S.- Sultanganj, Dist.- Patna
- 7. Competent Authority-Cum-Executive Magistrate, Patna City, Patna
- 8. The Joint Secretary Cum Appellate Authority, Building Construction And Housing Department, Govt. Of Bihar, Patna
- 9. The State Of Bihar

..... Respondents/Respondents

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Appearance :
(In LPA No. 841 of 2012)

For the Appellant : Shri Anil Kumar Sinha, Adv.
For the Respondents : Shri Anjani Kumar (AAG 10)
Shri Sudhir Kumar, Adv.
Shri Rajeev Kumar, Adv.
Kumar Malendu, Adv.

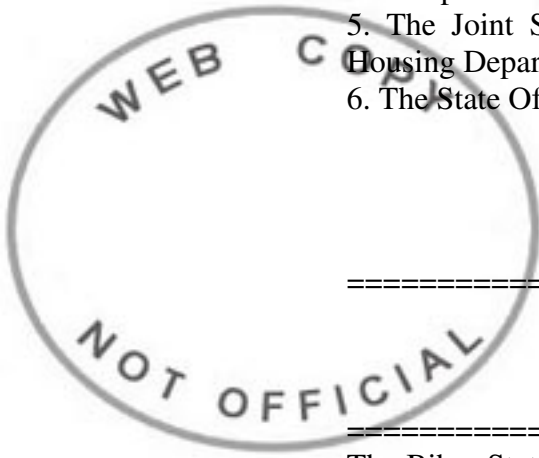
(In LPA No. 364 of 2013)

For the Appellant : Shri Anil Kumar Sinha,
For the Respondents : Shri Ajit Kumar, Adv.
Shri Shailendra Kumar, Adv.
Shri Krishna Murari Rawat, Adv.

(In LPA No. 505 of 2014)

For the Appellant : Shri Anil Kumar Sinha, Adv.
For the Respondents : Shri Devendra Prasad, Adv.
Kumar Malendu, Adv.

(In LPA No. 511 of 2014)



For the Appellant : Shri Anil Kumar Sinha, Adv.
For the Respondents : Nagendra Kumar, Adv.
(In LPA No. 512 of 2014)
For the Appellant : Shri Anil Kumar Sinha, Adv.
Shri Ramnandan Pd. Sinha, Adv.
Shri Somir Kumar Sinha, Adv.
For the Respondents :
(In LPA No. 509 of 2014)
For the Appellant : Shri Anil Kumar Sinha, Adv.
For the Respondents : Shri Nandan Prasad Singh, Adv.
Shri Surendra Prasad Singh, Adv.
(In LPA No. 499 of 2014)
For the Appellant : Shri Anil Kumar Sinha, Adv.
For the Respondents : Gouranga Chatterjee, Adv.
(In LPA No. 541 of 2014)
For the Appellant : Shri Anil Kumar Sinha, Adv.
For the Respondents : Shri Ramnandan Pd. Sinha, Adv.
Shri Somir Kumar Sinha, Adv.
(In LPA No. 514 of 2014)
For the Appellant : Shri Anil Kumar Sinha, Adv.
For the Respondents : Shri Ramnandan Pd. Sinha, Adv.
Shri Somir Kumar Sinha, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 20-01-2015

This batch of Letters Patent Appeals is filed against the common judgment dated 3.5.2011, passed by the learned single Judge in C.W.J.C. No.12217/92 and batch. The unsuccessful petitioners are the appellants.

The Bihar State Housing Board, the common appellant herein, acquired about 200 acres of land for its purpose, in the revenue village, Bahadurpur of Patna District; in the year 1975. A notification under Section 4(1) of the Land Acquisition Act was issued, and a declaration

under Section 6 of the Act was published on 1.5.1975. The government is said to have handed over the possession of the land to the appellant on 22.7.1977.

The appellant stated that in the year 1983 the contesting respondents were found to be in illegal possession of parts of the acquired land. It initiated proceedings under Section 59 of the Bihar State Housing Board Act, (for short, the Act) before the competent authority. The same were dismissed through an order dated 25.7.1988. Aggrieved by that, the appellant filed appeals under Section 60 of the Act. The said appeals were dismissed on 23.2.1990. However, it was directed that the contesting respondents therein shall be allotted, the very land which is under their occupation. Not satisfied with the said order, the appellant filed the batch of writ petitions. The learned single Judge dismissed the writ petitions through a common order, upholding the order passed by the appellate authority. Hence, this batch of Letters Patent Appeals.

Heard Shri Anil Kumar Sinha, learned counsel for the appellant, and Shri Anjani Kumar, learned Government Advocate- 10 for the respondents.

The land was acquired way back in the year

1975. The alleged encroachment is said to have taken place, or noticed, in the year 1983. While the respondents pleaded that they never parted with their land, nor it was acquired by the appellant, it is urged by the appellant that the land in question was very much, part of the acquired land. We do not find any specific finding in this behalf.

In a way, the appellant is itself responsible for absence of any specific finding. It approached the authority under Section 59 of the Act. The provision reads:

“59. Summary procedure for eviction and recovery of rents.- (1) Notwithstanding anything contained in the transfer of Property Act, 1882 (Act 1 of 1882), the Code of civil Procedure, 1908 (Act 5 of 1908) or any other law for the time being in force, if competent authority is of opinion-

(a) That the person authorised to occupy and Board premises has-

i) Not paid rent lawfully due from him in respect of such premises for a period of not less than three months; or

ii) Sub-let, without the permission in writing of the Board, the whole or any part of such premises, or

iii) Committed, or is committing any act contrary to the provisions of clause (O) of section 108 of the Transfer of Property Act, 1882 (Act 4 of 1882); or

iv) Made or is making material alteration to, alteration to alteration in such premises without the previous written permission of the Board, or

v) Otherwise acted in contravention of any of the terms, expressed or implied, under which he is authorised to occupy such premises, or

(b) That any person is in unauthorised occupation of any Board premises.

The competent authority may issue in the manner hereafter provided a notice in writing calling upon the person, if any, authorised to occupy as well as any other person who may be in occupation of the whole or any part of the premises to show cause why order of eviction and

recovery of arrears of rent and damages, if any should not be made.” (remaining part of the Section not reproduced, since it is not relevant for this case).

A perusal of the provision discloses that the facility mentioned therein is available only to get eviction of the lessees or licensees of the Housing Board, from its properties, including the vacant lands. It is difficult to cull out from the provision, that the disputed questions of title, in a proceedings to which the Housing Board itself is a party, can be decided thereunder. Further, the authority under the provision is not conferred with the powers of a Civil Court to decide the questions of title. For that and other allied reasons, the authorities refused to grant relief to the appellant. Same result ensued in the appeal filed under Section 60 of the Act, as well as, the writ petition.

Learned counsel for the appellant made an attempt to convince that the clause (b) of subsection (1) of Section 59 of the Act which is wider in scope and worded in general terms, would enable the adjudication of disputes of this nature. We do not agree. If we apply the principle of *ejusdem generis*, or the general principles of adjudication, the contention becomes unacceptable.

We do not find any basis to interfere with the order passed concurrent at three stages. We, therefore,

dismiss the Letters Patent Appeals.

Interlocutory application, if any, stands disposed

of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

K.C.jha/-
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