

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25158 of 2013

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Vinay Kapoor, S/O Sant Ram Kapoor, 402- Royal Residency CGHS, Plot No. 7,
Sector- 45, (Back Of Doordarshan Apartment), Gurgaon, Haryana

.... Petitioner

Versus

1. The State of Bihar through Secretary, Housing Department, Nirman Bhawan,
Patna
2. Chairman- Cum- Managing Director, Bihar State Housing Board, Patna.
3. Estate Manager- Cum- Under Of Additional Secretary, Bihar State Housing
Board, Patna.
4. The Superintending Engineer, Bihar State Housing Board, Patna.
5. The Executive Engineer, Bihar State Housing Board, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mrs. Punita Kumari Singh, Advocate
For the State : Mrs. Divya Verma, AC to AAG-3
For the Housing Board : Mrs. Binita Singh, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-01-2016

Heard parties.

Through this writ application, the petitioner seeks
direction to the respondent Housing Board to allot a site/plot of
category Middle Income Group to the petitioner for which he had
already paid registration amount of Rs.50/- in the year 1972 and the
earnest money of Rs.2,000/- in the year 1978 vide Annexure-2.

It is contended that thereafter, the petitioner was waiting
for a letter of allotment but in vain. Ultimately, he had written to the
Housing Board in the year 2006 then he received a letter dated
6.11.2006 as contained in Annexure-5 informing him that till then the

persons up to the serial number 1184A have been allotted land in Digha but the petitioner's serial number is 1930, therefore, he has not been given allotment till date.

Now, it is contended on behalf of the Housing Board that in view of the provisions contained in the Digha Acquired Land Settlement Act, 2010 (hereinafter referred to as 'the Act'), those previous allotments have also been annulled and the petitioner even not having been allotted any land in Digha, there would be no possibility of any land allotment in his favour. Mrs. Binita Singh, learned counsel appearing for the Housing Board, further submits that the petitioner would be only entitled for refund of earnest money along with simple interest @ 5 % per annum.

Per contra, learned counsel appearing for the petitioner, placing reliance upon a decision of a Single Judge Bench of this Court in **Shakuntala Devi Vs. The Managing Director, the Bihar State Housing Board rendered in 2010 (3) PLJR 241**, submits that in identical situation, writ petitioner's earnest money was directed to be paid along with compound interest of 10% per annum and also a cost of Rs.5000/- was imposed. However, Mrs. Binita Singh submits that in that case, allotment was already made in favour of the petitioner but this petitioner is yet to be allotted any plot.

Be that as it may, in my view, the petitioner's case would

be covered under Section 4 of the Act. Section 4 speaks not only regarding cancellation of allotments but also for refund of the deposits made by allottees/applicants. For better appreciation, the aforesaid provisions is quoted as under :

“4. Cancellation of allotments and refund of the deposits made by the allottees/applicants, with the Board along with interest- The Board may cancel the allotment/allotments made over the acquired land under the Bihar State Housing Board (Management and Disposal of Housing Estates) Regulation, 1983 framed under the Bihar State Housing Board Act, 1982 and make refund of the deposits made by such allottees/applicants along with compound interest @ 8% per annum from the date of its deposit till the date of refund”.

That apart, provisions of the aforesaid Act would have overriding effects upon Bihar State Housing Board Act and/or any other laws/rules/regulations for the time being in force which provides refund of earnest money only @ 5% simple interest.

In such a situation, I do not have any hesitation in holding that the petitioner being an applicant though not reaching the stage of allottee would also be covered for the relevant purpose under Section 4 of the Act and, thus, would be entitled for refund along with interest.

Accordingly, it is ordered that the petitioner's earnest money should be refunded within a period of three months along with compound interest @ 8% per annum to be calculated from the date of its deposit till the date of refund in terms of Section 4 of the Act.

The three months' period would be counted from the date of production of a copy of this order by the petitioner before the Managing Director of the Housing Board which would get all formalities done on the same day with regard to refund.

However, if the Board fails to refund the amount within the aforesaid period then the petitioner would be entitled for a cost of Rs.25,000/-.

This writ application stands disposed of.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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