

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 8410 of 2014

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Vivek Kumar Gupta S/o Late Gayani Das Gupta and Maternal Grandson (Nati) of Mostt. Sushila Devi W/o Late Nagendra Prasad at Muradpur, P.S. Pirbahore, District - Patna - 800004 and authorized heir of Mostt. Sushila Devi W/o Late Nagendra Prasad.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Housing, Govt. of Bihar, Old Secretariat, Patna – 800001.
2. The Managing Director, Bihar State Housing Board, 6 Sardar Patel Marg, Patna – 1.
3. The Manager Estate/Estate Officer, Bihar State Housing Board, 6 Sardar Patel Marg, Patna – 1.
4. The Executive Engineer, Patna Division No. II, Bahadurpur, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sachida Nand Kishore Prasad Sinha, Advocate
For the BSHB : Ms. Binita Singh, Advocate
For the State : Mr. Vivek Prasad, G.P. 7

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 22-11-2016

Heard learned counsel for the parties.

The petitioner has sought a direction to the respondent Bihar State Housing Board (hereinafter referred to as the 'Board') to allot and give physical possession of a flat at Bahadurpur or in Kankarbagh or elsewhere at Patna, after substituting his name in place of his maternal grandmother, after completing all formalities. Earlier by order dated 19.09.2012 in C.W.J.C. No. 17325 of 2012, a bench of this Court, had directed the respondent no. 1 to consider the request of the petitioner in his representation dated 13.08.2012.

Pursuant to the same, the Managing Director of the Board has passed order dated 13.12.2012, by which it has been held that due to non availability of any land, no allotment can be made and if prayer is made for refund, the same shall be processed.

Learned counsel for the Board raised a preliminary objection and submitted that once the order has been passed on 13.12.2012 clearly stating that the allotment of land was not possible, which was pursuant to the direction of the Court to dispose off the representation of the petitioner, the same not having been assailed, the petitioner and till the time the order dated 13.12.2012 is in operation, the petitioner cannot get any relief.

Learned counsel for the petitioner has produced copy of order dated 20.09.2012 in C.W.J.C. No. 10052 of 2005 (**Vinay Kumar & Ors. vs. The State of Bihar & Ors.**) by which a co-ordinate Bench of this Court in the said case has disposed off the matter with liberty to the petitioners to pursue the matter with the Housing Board.

Having considered the matter, the Court finds substance in the submissions of learned counsel for the Board. Till such time there is specific refusal by the Board declining to allot any land to the petitioner and such order is not challenged, no relief, as sought in the writ petition, can be granted to him. As far as the

decision of the Court in **Vinay Kumar** (supra) is concerned, it was a case where the land was allotted to those petitioners, but delivery of possession could not be effected. In the present case, such is not the position.

In view of the aforesaid, the writ application stands disposed off.

(Ahsanuddin Amanullah, J.)

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