

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14817 of 2012

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Sangita Singh W/o Shri Mithlesh Kumar Singh Residing of Village E/ 7
R B I Colony P.O. Lohiya Nagar P.S. Kankarbagh Patna.

.... Petitioner.

Versus

1. The State of Bihar through Secretary Housing Department
2. Lalan Prasad Manjul S/O Late Shri Ramashish Pd. Singh Residing
At M.I.G. 142 Hanuman Nagar P.S. Patrakar Nagar, District Patna
3. Smt. Vijay Singh W/O Jai Nandan Singh Residing Of Samanpura,
P.S. Behan District Darbhanga At Present Bikramshila Apartment
Hanuman Nagar, P.S. Patrakar Nagar, Patna
4. Manager State, Housing Board, 6 Sardar Patel Marg Patna
5. Managing Director State, Housing Board, 6 Sardar Patel Marg
Patna

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Anshuman Sinha, Adv.
For the Respondent no. 2: Mr. Pankaj Kumar Sinha, Adv.
For the Respondent no. 3: Mr. Rajendra Pd. Singh, Adv.
For the State : Mr. Balram Kapri, AC to SC-26

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 22-11-2016

Heard parties.

Petitioner seeks direction to the respondent-Housing
Board to take a decision upon the proposed transfer in her favour of
MIG House No. 142 situated in Hanuman Nagar, Patna Housing
Board Colony allotted by Bihar Housing Board to Sri Lalan Prasad
Manjul vide letter No. 1757 dated 02.05.1985.

The case of the petitioner is that she wants transfer of the



MIG House No. 142 in her favour, Rs. 50% of the dividend earned on proposed transfer, she has already deposited Rs. 21,000,00/- but the Housing Board is not taking a final decision in the matter.

Learned counsel for the respondent no.2 has appeared and supported the case of the petitioner at the time of hearing and submitted that the respondent no. 2 wants to transfer in favour of the petitioner and the petitioner has deposited Rs. 21,000,00/- on behalf of the respondent no. 2.

Learned counsel appearing for respondent no. 3 vehemently opposes the proposal of such transfer on the ground that there was an agreement between the respondent no.2 and respondent no.3 for transfer of that house in his favour but that agreement has been flouted though amount as per the agreement was deposited by the respondent no.3 with the Housing Board and that has not even been returned. For flouting the agreement and criminal breach of trust etc., the respondent no. 3 has taken legal recourse by filing a complaint case and action has been taken against the petitioner. A suit for specific performance of contract is also pending before a competent court.

It is contended that till pendency of such suit and the criminal case, no transfer should be made in favour of the petitioner.

Per contra, learned counsel for the petitioner as well as



the respondent no. 2 have submitted that of course a complaint case has been filed and cognizance has been taken but the respondent no.2 has been granted bail on a condition that the amount that was deposited by respondent no.3 before Housing Board i.e. Rs. 2,52,000/- would have to be deposited before the court and the complainant would be at liberty to withdraw it. The petitioner was allowed to deposit in five equal instalment and in that event he was directed to be enlarged on bail.

Learned counsel appearing for the respondent no.2, however, submits that the bail order was passed without hearing the complainant and he has not withdrawn that.

Be that as it may, since the petitioner has deposited the said amount before the court below to be withdrawn by the complainant it would depend upon the complainant whether he withdraws it or not? The question is as to whether in such a situation, Housing Board should allow the transfer or not on the basis of a letter written by third party which is stranger to the original contract. The answer has to be given to the Housing Board itself but it has refrained from doing it till date.

Accordingly this writ petition is being disposed of with a direction to the Housing Board to take a decision in accordance with law within a period of two months from the date of receipt/production



of a copy of this order.

It is made clear that if the Managing Director, State Housing Board, Patna requires assistance from any of the parties, he would be free to issue notice to such party and get such assistance.

(Dr. Ravi Ranjan, J.)

Siddharth/Vikash-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

