

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15118 of 2011

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1. Ram Anutha Singh S/O Late Ram Kishun Singh R/O Mohalla- -9, L.I.C. Colony, Kankarbagh, Police Station- Patrakarnagar, Distt. And Town- Patna

2. Manju Singh W/O Sri Mithilesh Kumar Singh R/O Mohalla- -9, L.I.C. Colony, Kankarbagh, Police Station- Patrakarnagar, Distt. And Town- Patna

.... Petitioner/s

Versus

1. Patna Municipal Corporation Through The Municipal Commissioner, Maurya Lok Complex, Dak Bunglow Road, Patna

2. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok Complex, Patna- 800001

3. The Estate-Cum-Revenue Officer (PRDA, Dissolved) Patna Municipal Corporation, Maurya Lok Complex, Dak Bunglow Road, Patna- 800001

.... Respondent/s

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Appearance :

For the Petitioners : Mr. Arvind Kumar Tiwary,
For the Respondent PMC : Mr. Rash Raj Verdhan

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 30-08-2016

Heard the learned counsel for the petitioners and Mr. Yash Raj Verdhan for the respondent- Patna Municipal Corporation (for short the 'PMC').

The petitioners pray for quashing of the demand raised by the respondent –PMC vide communication dated 27.09.2010 for allotment of the plot bearing no. B-64 located in the Transport Nagar in the City of Patna.

According to the petitioners, the subject plot, on application, was offered by the then Patna Regional Development Authority (for short 'PRDA') to the applicants inasmuch as earnest money and certain instalments thereof were paid. Last payment towards the dues of the then PRDA (now PMC) was made after 27.04.2005. In the meantime, the PRDA, vide resolution bearing no. 8 of 2005 (Annexure-B to the counter affidavit of respondent nos. 1 to 3), resolved to enhance the rate for allotment of the subject land in the Transport Nagar from

Rs. 216 per Sq. ft to Rs. 314 per Sq. ft. In the light of the said resolution, the present demand has been raised by the respondent- PMC which has been challenged in the present writ petition.

Mr. Vardhan, has stated that as the petitioners had not made entire payments of the outstanding dues as per the rate at which they were agreed to be allotted and, in the mean time, vide the policy decision of the erstwhile PRDA, the rates have been increased the petitioners are legally obliged to pay those dues of the respondent PMC whereafter the land shall be conveyed/allotted in favour of the petitioners.

The petitioners, on the other hand, submits that the policy decision of the erstwhile PRDA would not attract the case of the petitioners. However, he is not in a position to dispute the contention of the respondent -PMC that entire payments of the consideration amount for allotment/conveyance of the subject plot in favour of the petitioner(s) was paid to the erstwhile PRDA. Relevant details of the payments and the demand of the PMC as calculated by the respondent- PMC have been enclosed at Annexure-A to the counter affidavit. The Court can interfere with the policy decision of the respondent only if it is shown to be palpably arbitrary and/or defeating the well crystallized right of the citizens. In the case at hand, the Court is unable to find that any such legal or statutory right has crystallized in favour of the petitioners as they defaulted in payment until the resolution was passed/taken. In my view, the challenge to the demand of the respondent- PMC on this count should fail.

The counsel for the petitioners has pointed out from the Annexure-A that respondent-PMC has also charged interest as well as the maintenance charge. It is stated that nothing was incurred by the respondent - PMC in maintaining the vacant plot. The interest part claimed by the

respondent- PMC is also not reasonable, if not wholly arbitrary. It is a matter of settlement of account with respect to the allotment of the plot. The respondent- PMC is ready to convey or allot the subject plot in favour of the petitioners on payment of the entire dues of the respondent- PMC. The petitioners have raised an objection with regard to the demand of the respondent -PMC under the head(s) interest and maintenance.

Seen thus, the Court is inclined to dispose of the writ application by permitting the petitioners to raise a grievance with regard to the claim of the respondent -PMC for payment of interest as well as maintenance charge for the plot in-question. As soon as such representation is filed, I am sure, the same shall receive due consideration at the hands of the appropriate/competent authority of the respondent -PMC and disposal in accordance with law by a reasoned order. Such order should be passed by the concerned respondents of the PMC on the representation of the petitioner within 05 weeks from the date of filing of the representation along with a copy of the order.

(Kishore Kumar Mandal, J)

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