

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1551 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 14469 of 2005

- =====
1. The Bihar State Housing Board through its Managing Director, Patna
 2. The Estate Officer-cum-Manager, Bihar State Housing Board, Patna
 3. Executive Engineer, Bihar State Housing Board, Division No. 2, Bahadurpur, Patna
 4. Assistant Engineer, Sub Division No. 2, Bihar State Housing Board, Bahadurpur, Patna

.... Appellant/s

Versus

Ram Binay Prasad, Son of Sri Ram Tawakya Singh, Resident of Plot no. 176, Road No. 23, Sri Krishna Nagar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Parduman Singh, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 20-01-2017

Re.:I.A. No. 7000 of 2015

The application is for condonation of delay of 1 year 330 days in filing the Letters Patent Appeal.



2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellants have shown sufficient cause to seek condonation of delay of 1 year 330 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 7000 of 2015 is allowed and delay of 1 year 330 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 1551 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 5th of July, 2013 in C.W.J.C. No. 14469 of 2005 whereby, the writ application was disposed of with a direction to the appellants to refund the amount deposited by the writ-applicant along with 12 per cent quarterly rest.

2. Similar question came up for consideration before this Court in L.P.A. No. 210 of 2014 (The Bihar State Housing Board & Ors. Vs. Chitalekha Singh & Ors.) decided on 14-07-2016 and this Court dismissed the appeal in view of the fact that Digha Acquired Land Settlement Act, 2010 was notified only on 27th of November, 2013 and therefore, the condition of payment of interest in the orders passed before commencement of the said Act cannot be said to be illegal.



3. Learned counsel for the appellants has referred to the orders passed in L.P.A. No. 1632 of 2014 (The Bihar State Housing Board & Ors. Vs. Anand Murthy Mallick), decided on 10th of March, 2015 whereby, this Court has ordered refund of the amount along with simple interest at the rate of 9 per cent on the amount of money deposited by the writ-applicant. We do not find that said judgment is any precedent that simple interest at the rate of 9 per cent alone can be awarded. It is a judgment in the facts of the case where this Court has found it equitable to grant simple interest at the rate of 9 per cent.

4. Learned counsel for the appellants further relied upon another order of a Division Bench of this Court in L.P.A. No. 500 of 2003 (The Bihar State Housing Board & Ors. Vs. Ram Keshwar Chaudhary & Anr.), decided on 3rd of August, 2015, whereby the Court has directed 8 per cent compound interest. However, again the attention of the Court was not drawn to the fact that Digha Acquired Land Settlement Act, 2010 was enforced only on 27th of November, 2013. Therefore, the grant of interest prior thereto is in the discretion of the Court.

5. In view of the judgment passed in L.P.A. No. 210 of 2014 (The Bihar State Housing Board & Ors. Vs. Chitalekha Singh & Ors.) decided on 14-07-2016, we do not find any error in the order passed by the learned Single Bench which may warrant interference in



the intra court appeal. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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