

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.184 of 2011

In

LPA 44 of 2010

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1. Dr. Ramji Pd. Ambastha Son of late Braj Bhushan Sahay Resident of M.I.G. 130, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 2. Rameshwar Ram Son of late Doman Ram Resident of M.I.G. 39, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 3. Baikunth Narayan Singh Son of Shri Kal Bamb Naraian Singh Resident of M.I.G.-58, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 4. Alak Niranjana Prasad Son of Shri Raj Narain Lal Resident of M.I.G. 71, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 5. Kishori Prasad Son of late Khaderan Singh Resident of M.I.G. -106, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 6. Krishan Kumar Sinha Son of Bindeshwari Pd. Lal Resident of M.I.G.-53, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 7. Anuj Kumar Sinha Son of late Brij Mohan Pd. Resident of M.I.G.-137, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 8. Kedar Prasad Singh Son of late Laxman Singh Resident of M.I.G.-49, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 9. Rajendra Prasad Sharma Son of Shri Ramwatar Sharma Resident of M.I.G.-79, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 10. Chanda Pandey Wife of Shri Upendra Nath Pandey Resident of M.I.G.-82, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 11. Mundrika Paswan Son of Shri Narain Paswan Resident of M.I.G.-141, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 12. Smt. Chandrakali Devi Wife of late Gaya Prasad Resident of M.I.G.-140, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 13. Rajiv Ranjan Prasad Son of Shri late Braj Bhushan Sinha Resident of M.I.G.-138, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 14. Smt. Meena Kumari Wife of Shri Ram Chandra Prasad Resident of M.I.G.-112, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 15. Vinod Kumar Son of Shri Jai Ram Singh Resident of M.I.G.-142, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 16. Dhananjay Nath Singh Son of Shri Sheo Dutta Prasad Singh Resident of M.I.G.-107, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 17. Mritunjay Nath Singh Son of Shri Seo Datta Pd. Singh Resident of M.I.G.-28, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 18. Jitendra Kumar Son of Shri Indradeo Singh Resident of M.I.G.-189, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 19. Smt. Manju Mishra Wife of Shri Sureshwar Mishra Resident of M.I.G.-80, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 20. Ram Sumari Devi Wife of late Ramanugrah Sharma Resident of M.I.G.-58, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 21. Satya Narain Sao Son of Shri Bishnu Sahu Resident of M.I.G.-36, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 22. Shashi Bhushan Prasad Son of Shri Dineshwar Prasad Resident of M.I.G.-40, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 23. Chhotu Sao Son of Shri Bhikhan Sao Resident of M.I.G.-37, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
 24. Ram Janam Singh Son of Shri Ram Briksha Singh Resident of M.I.G.-



- 149, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
25. Smt. Daimanti Devi wife of Shri Amir Pd. Singh Resident of M.I.G.-89, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
26. Sheodeo Singh Son of Shri Jagdeo Singh Resident of M.I.G.-41, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
27. Ram Subhag Sharma Son of Chandradeep Sharma Resident of M.I.G.-57, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
28. Jagdish Ram Son of Shri Ram Balak Ram Resident of M.I.G.-30, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
29. Harishankar Son of late Narain Pd. Singh Resident of M.I.G.-123, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
30. Urmila Sinha Wife of late Mani Mohan Sinha Resident of M.I.G.-72, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
31. K.P Sharma Son of Shri Ambika Singh Resident of M.I.G.-83, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
32. Ahmad Navi Khan Son of late Chedan Navi Khan Resident of M.I.G.-167, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
33. Chhote Narain Singh Son of late Ram Lal Singh Resident of M.I.G.-102, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
34. Kewal Ram Son of late Ram Lal Choudhary Resident of M.I.G.-146, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
35. Dharma Nath Singh Son of Shri Nandi Pati Singh Resident of M.I.G.-131, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.
36. Madan Mohan Prasad Singh Son of Shri Parash Nath Singh Resident of M.I.G.-60, Sahid Bhagat Singh Colony, P.S. Rampur, District- Gaya.

.... Petitioner/s

Versus

1. The Bihar State Housing Board through its Managing Director, 6-Mangles Road, Patna.
2. The Chief Engineer, Bihar State Housing Board, 6-Mangles Road, Patna.
3. The Esteto Manager, Bihar State Housing Board, 6-Mangles Road, Patna.
4. The Superintending Engineer, Bihar State Housing Board, In-charge, Gaya Circle, Bahadurpur, Patna.
5. The Executive Engineer, Bihar State Housing Board, Gaya Division, A.P. Colony, Gaya.
6. The District Magistrate, Gaya.
7. Smt. Ganjeshwar Devi W/o Janeshwar Singh Resident of Village- MIG-87, Shahid Bhagat Singh Colony, P.S. Rampur, District-Gaya.
8. Gopal Das Raitani Son of late Ram lal Choudhary Resident of Village- MIG-176, Shahid Bhagat Singh Colony, P.S. Rampur, District-Gaya.
9. Ashok Kumar Singh Son of Shri Ram Prasad Singh Resident of Village- MIG-154, Shahid Bhagat Singh Colony, P.S. Rampur, District-Gaya.
10. Lalan Pandey Residing at Village Uphara, P.O. Uphara, P.S. Uphara, District Aurangabad.
11. Sadan Pandey residing at Village- Narayanpur, P.O. Naubatpur, P.S. Naubatpur, District- Patna.
12. Mahendra Nath Pandey Residing at Quarter No. 208A, Marshelling Yard, P.S. Delha, District- Gaya.
13. Rabindra Nath Pandey Residing at Shahid Bhagat Singh Colony, MIG



- 55, Mohalla Mustafabad, P.S. Rampur, District- Gaya.
14. Satish Kumar Son of Ramdeo Singh Resident of Village- MIG-45,
Shahid Bhagat Singh Colony, P.S. Rampur, District-Gaya.
15. Rameshwar Prasad S/o of late Raghbir Daayl Resident of Village-
MIG-52, Shahid Bhagat Singh Colony, P.S. Rampur, District-Gaya
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Appearance :

For the Petitioners : Mr. Shailendra Kumar Sinha, Advocate
For the Housing Society : Mr. Anshuman Singh, Advocate
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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**

And

HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP
SINGH)**

13 17-07-2017 Heard learned counsel for the review petitioner and

Mr. Anshuman Singh, learned counsel for the Housing Society.

Learned counsel for the petitioners seeks review of
the order dated 11.1.2011, passed in LPA No. 44 of 2010,
whereas learned counsel for the Housing Society submits that
no case for review has been made out.

Before we consider the respective submissions of the
parties, it may be necessary to notice the facts of the case in
brief.

Pursuant to an advertisement issued in the year 1989,
the petitioners and others filed applications for allotment of
plots/houses of the Bihar State Housing Board in the township
of Gaya. At the relevant time, the tentative price of the flats was
fixed at Rs. 1, 27, 494/-. A lottery was held in the year 1991 and



in pursuance thereof, the flats/houses were allotted to different applicants including the petitioners. Subsequently in the year 1992, the prices of the flats were enhanced and enhancement of cost was intimated to the petitioners being Rs.1, 78, 326/- for 166 flats, and Rs.1, 57, 491/- for the remaining 24 flats. The petitioners being aggrieved by the aforesaid enhancement moved this Court by preferring CWJC No.10888 of 1992. A Division Bench by its order, dated 1.4.94 (Annexure 4 to CWJC No.4489 of 2001) directed the Housing Board to fix the price as on the date of the lottery, i.e., 1.1.1991. On the orders of this Court, the Housing Board again determined the price of the flats as on 1.1.91. The price for 166 flats/houses earlier fixed at Rs.1,78,326/- was reduced to Rs.1,59,620/-, and 24 flats/houses of which earlier price was at Rs.1,57,491/- was reduced to Rs.1,100,82/-.

Petitioners being still dissatisfied, moved this Court by preferring CWJC no.11620 of 1994. The Court granted one another indulgence to the petitioners and directed for constitution of a three men Committee to re-examine the prices of the flats/houses in question. The Committee did not find any fault with the Housing Board in fixing the price as existing on 1.1.1991, date on which the lottery was held. The petitioners



again filed CWJC No.4489 of 2001. The learned Single Judge dismissed the writ petition vide order dated 29.1.2009, holding that there was no infirmity in the report of the Committee. The matter was carried in the appeal before a Division Bench being LPA No.44 of 2010. This Court, not finding any merit in the appeal, dismissed the same on 11.1.2011.

Petitioners submit that much before dismissal of appeal by the LPA bench on 11.1.2011, they had deposited the amount arrived at by three men committee, reiterating the rates fixed by the Housing Board as on 1.1.1998. As such, the petitioner seeks a direction to the Housing Board to formalize the agreement of plots/houses allotted in their favour as they have deposited the amount.

Learned counsel for the Housing Board rightly submits that a verification is required as to whether and when the petitioners have deposited the amount. He also submits that as the petitioners did not deposit the amount immediately pursuant to order dated 1.4.1994, they would be liable to pay the interest/enhanced price. We too are of the view that if the petitioners had deposited the money immediately pursuant to the order dated 1.4.1994 in C.W.J.C.No. 10888 of 1992, the matter would have been different as an allottee cannot be made



to suffer on account of arbitrariness in enhancing the prices of flats/houses. But at the same time, once the arbitrariness is rectified, the allottees should deposit the rectified amount within a reasonable time, otherwise it will be subject to the interest till the amount is paid.

In the circumstances, we would only observe that if the petitioners file a detailed representation before the Housing Board, the same would be examined and disposed of by respondent no.1 within a period of two months from the date of receipt of a copy of representation along with a copy of this order. The respondent Housing Board would also communicate the price to be deposited by the allottees minus the amount already deposited by them.

The review application stands disposed of.

(Samarendra Pratap Singh, J)

(Prakash Chandra Jaiswal, J)

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