

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1274 of 2014
IN
Civil Writ Jurisdiction Case No. 8457 of 2012**

=====

1. Bihar State Housing Board, 6, Sadar Patel Marg, Patna-15 through its Managing Director
2. The Estate Officer, Bihar State Housing Board, 6, Sadar Patel Marg, Patna-15
3. The Executive Engineer, Bihar State Housing Board, Darbhanga Division, Darbhanga

.... Appellants

Versus

1. The State of Bihar through the District Magistrate, Darbhanga
2. Punam Kumari, wife of Late Anil Kumar Jha, Resident of village Kabilpur, Police Station- Bahadurpur, P.O.- Laheriasarai, Dist.- Darbhanga

.... Respondents

=====

Appearance :

For the Appellants : Mr. Anshuman Singh, Advocate
For the Respondent State: Mr. Anirban Kundu, SC-24
Mr. Kumar Mangalam, AC to SC-24
For the Respondent No.2: Mr. Suraj Narayan Yadav, Advocate
Ms. Annu Shree, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-05-2017

Heard learned counsel for the Housing Board, learned counsel for the State and learned counsel representing private respondent No.2.

If the private respondent, on a clear and categorical stand and statement made before the learned single Judge, wanted the possession of the plot on 'as is where is basis', then, this Court fails to understand the anxiety of the Housing Board in creating a ghost about an encroachment on the plot of land, which is coming in



the way of handing over possession to the private respondent.

After hearing this appeal and perusing the impugned order dated 02.04.2013, this Court gets an impression that nothing has changed in the Housing Board and their mindset remains the same that they want to litigate and they want to create problems for anybody and everybody who wants to deal with them. This is done for whose benefit, the Court does not have to spell out. It goes without saying that whenever such problems are raised and objections arise, it gives a bargaining position to the authorities of the Housing Board over and above their legitimate demand, which they may have or may not have at all. It varies from facts to facts.

If the Housing Board does not want to change its approach that they had been created with the object of serving the people and it is not a self-serving organization, then something more would be required to be done by the Court to mould their approach and attitude to such disputes.

The anxiety expressed by the learned counsel, that unnecessarily the Housing Board would be dragged into a controversy, is an imaginary kind of submission to make because the order of the learned single Judge is unambiguous, which directed the Board for giving possession of the aforesaid plot on 'as is where is basis'. The private respondent knows what she is bargaining for and,



therefore, it is yet another innovation of the Housing Board not to deliver possession of a plot of land for which the entire amount so claimed has already been paid and settled decades ago.

The appeal has no merit and, therefore, is dismissed.

The Managing Director of the Housing Board will hand over the possession to the private respondent within four weeks from today and it is made clear that the private respondent will have to accept the possession on ‘as is where is basis’ and the Housing Board will have no responsibility with regard to the encroachment.

If the possession is not delivered within four weeks, the Managing Director will be answerable in contempt.

Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.05.2017
Transmission Date	N/A

