

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1499 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 7131 of 2005

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1. The Bihar State Housing Board, Patna through its Chairman cum Managing Director, Mangles Road, Patna.
 2. The Estate Officer, Bihar State Housing Board, Patna.
 3. The Executive Engineer, Bihar State Housing Board, Division No. 3, Patna.

.... Appellant/s

Versus

Bishambhar Nath Roy, S/o - Late Shambhu Narayan Roy, R/o Village - Rampur, P.S. - Rampur, Dist. - Bhojpur; at present Flat No. II, Shanti Vihar Apartment, Arya Path, Patna - 800014.

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mrs. Renu Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-08-2017

Seeking exception to an order dated 11.09.2013 passed by the learned Writ Court in C.W.J.C. No. 7131 of 2005, this appeal has been filed under Clause 10 of the Letters Patent.



2. Respondent, the original writ petitioner had filed the writ petition and sought a direction to the appellant Board to hand over possession of Flat No. 3SFA 3/36 situated at Bahadurpur Housing Colony, Patna to him as he had paid the initial demand which was raised against him. As possession of the flat was never given to the respondent on one ground or the other, the respondent felt aggrieved by the aforesaid action. After allotment was made in his favour on 27.06.1989 the matter was contested before the Writ Court in detail and the learned Court after examining various issues came to the conclusion that the Housing Board was taking advantage of its own wrong in not giving possession of the property to the respondent. It was found that one Jalaluddin Ansari who was working as a UDC with the Board had illegally occupied the property in the year 1998. He had installed electric meter in his own name and the Board was also collecting rent from him for more than 15 years. It was also found by the learned Writ Court that as vacant possession of the flat was not available, the delay was caused in the matter of possession being given to the respondent. The Writ Court examined the matter in detail and the contention of the Board that Md. Jalaluddin occupied the flat in the year 2007 was specifically rejected by holding that the documents did show that he was occupying the flat since 1998 illegally and vacated it only in September, 2012. After



going into various aspects of the matter, the learned Writ Court found that the flat was allotted to the respondent under a Self Financing Scheme in the year 1998, possession was never given to the respondent on one pretext or the other was also proved and as the respondent was willing to comply with all orders in the matter of payment, the learned Writ Court found that the act of the Board was unfair and arbitrary and accordingly issued the *mandamus*. It was also found by the learned Writ Court that the delay was occasioned because of the active connivance of some officials of the Board and its employees in preventing allotment/possession of the flat in question. The Writ petition as is made out from the record was filed in the year 2005 and it is after 10 years that the learned Writ Court decided the issue after detailed consideration, allowed the writ petition, directed the Managing Director of the Board to evaluate the cost of the property in question, work it out in accordance with rule and thereafter the writ petition was disposed of with a direction for making allotment and it was also directed that till the flat was occupied from the year 1998 up to 2012 by Md. Jalaluddin for this period on the amount of delayed payment interest shall not be claimed and directed for handing over possession.

3. We find that the aforesaid order has been passed by the Writ Court after due consideration and on going through the records



after hearing submission by learned counsel, we find no perversity or error in the same warranting reconsideration.

4. The Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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