

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1497 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 12862 of 2002**

=====

Ashok Kumar Shrivastav, Son of Late Brinda Prasad Lal, resident of village and Post Office -Mathila, Police Station - Dumraon, District - Buxar.

.... Appellant/s

Versus

1. The Bihar State Housing Board through its Managing Director, Mangels, Road, Patna.
2. The Chairman, Bihar State Housing Board, Mangels Road, Patna.
3. The Managing Director, Bihar State Housing Board, Mangels Road, Patna.
4. The Estate Officer, Bihar State Housing Board, Mangels Road, Patna.
5. The Executive Engineer, Bihar State Housing Board, Public Health Division, Patna.
6. The Executive Engineer, Bihar State Housing Board, Public Health Division Bahadurpur, Patna.
7. The Assistant Engineer, Housing Board Subdivision, Arrah.
8. The State of Bihar through the Secretary, Building Construction and Housing Department (Housing), Bihar, Patna.
9. Srimati Indu Devi, Wife of Dhananjay Singh, resident of village- Bajareya, Police Station - Sahar, District - Bhojpur, Arrah, Presently residing in H1/36 Dalpatpur, Arrah, District - Bhojpur.

.... Respondent/s

=====

Appearance :

For the Appellant : Mr. Deva Kumar Prasad Sinha, Advocate
For Respondents 1 to 7 : Mr. Lalit Kishore, Sr. Advocate
Ms. Binita Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 02-05-2017

Seeking exception to an order dated 26.11.2012 passed by the learned Writ Court in C.W.J.C. No. 12862 of 2002, this appeal has been filed under Clause 10 of the Letters Patent.

2. A very short order has been passed by the Writ Court



for dismissing the writ petition, the said order passed on 26.11.2012 reads as under:-

“Writ will be treated to be dismissed again for non-compliance of the Court’s order dated 02.07.2012.

Court fails to understand as to what tactics petitioner is adopting because it is a second instance of the kind as earlier also writ had been dismissed and restored. This aspect will be taken into consideration if contingency for reconsideration of the order is required to be made.”

3. It is seen that the writ petition was filed in the year 2002 and in the writ petition the prayer made was to direct the Bihar State Housing Board to make allotment of a house bearing House No. H1/36 and deliver possession of the house. It is said that the original petitioner Brinda Prasad Lall was allotted the house in pursuance to an advertisement issued by the Board in the year 1972. It is seen that the original petitioner Brinda Prasad Lall died during the pendency of the writ petition and after counter affidavit and other objections were raised by the Board on 02.07.2012 finding that the house has been possessed by Respondent No. 9, one Smt. Indu Devi, wife of Dhananjay Singh, she was permitted to be restored as a party in the writ petition and a direction was issued. Writ-petitioner was directed to take steps for impleading Respondent No. 9 and further to issue



notice to her by registered post acknowledgment due failing which it was directed that the petition shall be dismissed. Four weeks time was granted for compliance. As the order passed on 02.07.2012 was not complied with, the petition was dismissed and thereafter it was again restored and when the appellant did not take proper steps the writ petition was again dismissed as indicated hereinabove on 26.11.2012. After dismissal of this writ petition on 26.11.2012 this appeal has been filed after an inordinate delay of more than two years and 210 days and in I.A. No. 6655 of 2015 the only reason indicated was that the counsel representing the appellant was seriously ill and the appellant was not aware of the order passed on 26.11.2012.

4. Merely because the counsel was ill that cannot be a ground for condoning such an inordinate delay in filing of the writ appeal and we find that even in these proceedings Respondent No. 9 was not served and it is only by paper publication that notices were issued to her.

5. Be that as it may, the fact remains that the appellant has been very careless in dealing with the matter and the learned Writ Court has dismissed the writ petition after taking note of the delaying tactics of the appellant, the writ petition was dismissed. Even for filing of this appeal, as indicated hereinabove, there is inordinate unexplained delay of more than 2 years and 210 days and when



taking note of all these factors with regard to allocation of house which was effected in the year 2002, now we see no reason to make any indulgence into the matter. In case the appellant has any grievance with regard to refund of the amount paid to the Board or settlement of any claim with regard to payments made to the Board, the appellant will have liberty to claim the same by initiating fresh proceedings but in the matter of allotment of the house in question now after such a long period of time when the records indicate that Respondent No. 9 is in possession, we see no reason to make any indulgence.

6. The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	09.05.2017
Transmission Date	

