

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.921 of 2014
IN
Civil Writ Jurisdiction Case No. 10712 of 2008**

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Prakash Chandra Jha son of late Bhola Jha resident of 6 MF - 8/253, Bahadurpur
Housing Colony, P.S. Agamkuan, District - Patna. Appellant/s

Versus

1. The Bihar State Housing Board, through its Secretary, 6-Sardar Patel Path, Patna.
 2. The Revenue Officer, Bihar State Housing Board, 6-Sardar Patel Path, Patna.
 3. The Estate Officer, Bihar State Housing Board, 6-Sardar Patel Path, Patna.
 4. The Executive Engineer, Bihar State Housing Board, 6-Sardar Patel Path, Patna.
- Respondent/s
- =====

Appearance :

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

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-03-2017

I. A. No. 4762 of 2014 is allowed for the reasons indicated therein.

The appellant had filed the writ application for quashing of the decision, dated 12.11.2013, of the Pricing Committee, which came to a conclusion that a sum of Rs. 3,95,721.74 /- was payable by the appellant against the cost of Middle Income Group Flat No. 6MF-8/1/253. The appellant also sought quashing of a letter, dated 14.01.2006, issued by the Revenue Officer of the Bihar State Housing Board, through which a demand of Rs. 3,11,565 /- has been raised, as against the cost of the aforesaid flat.

The allotment letter was issued in favour of the appellant on 16.01.1982. He paid 40 percent of the tentative price,



which was fixed as Rs. 60,000/- and thereafter he went in hibernation on the ground that the allotment letter talks in terms of the payment after execution of the agreement between the parties.

When the writ application was filed, the Learned Single Judge referred the matter for calculation of the cost of the flat in question to the Pricing Committee, which is a body created by a judicial order and Pricing Committee returned to the Court with a decision, where the actual cost worked out by the Pricing Committee was almost Rs. 4500 /- less than an overall price of the flat.

It was also taken into consideration that not merely the letter of allotment, but even the provisions of the Regulation relating to the Housing Board, has an interplay and the obligation is of an allottee to pay EMI regularly and in default thereof the statutory interest has to be considered in light of the provision of Regulation 36 (1) and (5) of the Bihar State Housing Board (Management And Disposal of Housing Estates) Regulation, 1983. The Learned Single Judge, after taking all the aspects into mind, concluded as under:

“It is evident from the provisions of the Regulation 36 specially Sub-Clause (5) thereof that interest would be chargeable on such amount as remains to be paid after the allotment. This is not a case where the Board has revised the price of the flat itself claiming enhancement on the ground of cost of acquisition, development and other charges rather on the revaluation of the property in October, 1998, the Board capitalized the value on the date of allotment giving the benefit of approximately Rs. 4500/- on the overall price of the flat, and the price payable by the petitioner has



only increased for the reason that the interest on the balance amount after hire purchase deposit was liable to be paid by the petitioner for the period from 1980 to 1990 when the agreement was entered into in terms of the statutory provisions of Regulation 36 which had not been taken into account in the agreement which referred to the old price and the old balance. Thus, it cannot be said that the action of the Board is, in any view of the matter, arbitrary and discriminatory. The decision of this Court in the case of Shiv Sahay Verma (supra) has no relevance in the present matter as this is not a case where there has been enhancement of price on account of increase of cost of acquisition of lands and its development. As a matter of fact, on revaluation the price of the flat had gone down on capitalization at the rate of interest of 12.25% fixed by the Board under the Regulations.

Similarly, no benefit can be derived by the petitioner from Sardar Singh's case (supra) in which it was stated that in the absence of demand, question of charging interest does not arise whereas in the present matter, the interest is being charged on the basis of statutory regulation as pointed out above. There can be no question of making any demand where the interest is chargeable on the basis of statutory regulations.

Thus, on a consideration of the entire facts and circumstances of the case, I see no occasion to interfere with the order dated 12.1.2013 of the Pricing Committee.

The writ application is devoid of merit. It is, accordingly, dismissed."

After having heard counsel for the appellant, counsel for the Housing Board and having closely considered the adjudication made by the Learned Single Judge, the Court gets a feeling that the whole effort in the litigation, initiated by the appellant,



was to shake off the liability of payment of interest for the period of default on his part despite the role played in non-execution of the agreement for almost 10 years.

The organizations like Housing Board are not doing charity. They also borrow money from financial institutions and they have to pay interest on the said borrowing. Therefore, any default by any allottee in regular payment of EMI is bound to be visited by component of statutory interest. This is what has been done by the Pricing Committee or by the Revenue Officer, when payment was raised against him.

The Learned Single Judge, therefore, has committed no error of law, which requires to be rectified in appeal.

Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

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