

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.215 of 2018

In
Letters Patent Appeal No.847 of 2018

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Surti Devi, wife of Late Mahendra Ram, resident of Begharon ka Ghar No.
38, South Mandiri, Harijan Colony, PS Buddha Colony, District Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through Chairman, State Housing Board, government of Bihar, Patna
2. The Secretary, Bihar State Housing Board, Government of Bihar, Patna
3. The Executive Engineer, Bihar State Housing Board, Patna
4. The Revenue Officer, Bihar State Housing Board, Patna
5. The District Magistrate, Patna
6. The Secretary, Department of Housing Building and Residence, Bihar
7. Gopal Bind, son of Ramashish Bind, resident of Mandiri, Behind the Patna Museum, PS Buddha Colony, District Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aditya Shankar, Mr. Ravi Prakash Mr. Sanchay Srivastava, Advocates
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-07-2018

Seeking review/recall of an order passed by us on
22.06.2018 in LPA No. 847 of 2018 this application has been
filed. Petitioner had invoked the writ jurisdiction of this Court in
CWJC No. 8254 of 2017 and called in question the show cause
notice issued by the Bihar State Housing Board (hereinafter



referred to as the 'Housing Board') directing her to vacate the house in question.

It was the case of the petitioner that she was in occupation of the house for more than 40 years and she cannot be vacated. The learned Writ Court examined the matter in detail and found that the petitioner has not been allotted the house in accordance with the requirement of law, she is a trespasser, and dismissed the writ petition.

On LPA being filed under Clause 10 of the Letters Patent we also went through the materials available on record and we found that the petitioner was not allotted the house in accordance with the requirement of law. She had occupied it unauthorizedly and merely because she was staying in the house we found no error in the order passed by the learned Writ Court and refused to interfere.

Now before us it is canvassed that the petitioner had been staying in the house for more than 40 years. In the Voter I.D, Pan Card, Ration Card, Gas connection the same address is shown and certain recommendations were also made for allotting the house to her. But in spite of the recommendation the house has not been allotted to her. Averments are made on humanitarian consideration to claim



allotment. However, learned counsel for the Housing Board on advance notice points out that mere recommendation for allotment does not create a legal right in favour of the petitioner to claim allotment based on the recommendation made. On draw of lottery allotments were made and as the petitioner was not allotted any house she is in unauthorized occupation and, therefore, no indulgence can be made.

On going through the order passed in the LPA we find that we had refused to interfere into the matter primarily on the ground that the petitioner has not been allotted the house in accordance with the requirement of law. There is no order of allotment in favour of the petitioner and, therefore, we did not deem it appropriate to make any interference into the matter. Now, based on the so-called recommendation made the petitioner claims reconsideration of the matter. However, the fact that there being no allotment in her favour does not alter the factual position that she is in unauthorized occupation and trespasser to the house in question. That being so and in view of the law laid down by the Hon'ble Supreme Court in the case of *Sasi vs. Aravindakshan Nair [(2017) 4 SCC 692]* laying down the scope of review in such matter we find no case is made out for any indulgence on the ground canvassed in this application.



This application is, therefore, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	

