

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1669 of 2016

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1. Shyama Devi, Wife of Shri Uday Narayan Singh, resident of Village & P.O.- Kespa, P.S. Tekari District Gaya at present residing at K- 509, Hanuman Nagar, Near State Bank of India, P.O. Lohiyanagar, P.S. Patrakarnagar, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Sri Anjani Kumar Sinha.
2. Sri Nil Kamal Managing Director of Bihar State Housing Board, Patna.
3. Sri M.P. Singh the Estate Officer, Bihar State Housing Board, Patna.
4. Sri Ranjit Kumar Ram Vijay, the Executive Engineer (In-charge), Bihar State Housing Board, Gaya Division, Gaya.
5. Sri Ranjit Kumar Ran Vijay, the Assistant Engineer, Bihar State Housing Board, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kishore Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

8 19-09-2018 Heard learned counsel for the petitioner and learned counsel for the Bihar State Housing Board as well as learned counsel appearing for the State.

Petitioner has prayed for initiation of contempt proceeding against opposite party nos. 2 to 5 as they deliberately and intentionally avoided to comply with the order dated 25.07.2014 passed in CWJC No. 9309 of 2010.

Earlier, petitioner filed CWJC No. 9309 of 2010 which was disposed of by this court vide order dated 25.07.2014



directing the Bihar State Housing Board, Patna through its Managing Director to enter into an agreement/deed of conveyance with the petitioner in connection with MIG House No. 34 in Shaheed Bhagat Singh, Mustafabad, Gaya and also to hand over vacant possession of the aforesaid house to the petitioner after making the house in inhabitable condition within three months from the date of receipt/production of a copy of this order and if the concerned respondents are not in a position to hand over vacant possession after making the house in inhabitable condition to the petitioner, they allot and hand over a different MIG plot/premises built up in about 2 kattha in a developed residential area in Gaya Town to the petitioner within the above stated period of three months and execute deed of agreement in respect of allotted house/flat in favour of the petitioner and furthermore, if the respondents are not able to fulfill the above stated directions of this court, the respondents must return the amount deposited by the petitioner with compound interest @ 14% along with Rs. 50,000/- as compensation to the petitioner within the above stated period of three months.

The opposite parties challenged the aforesaid order dated 25.07.2014 passed in CWJC No. 9309 of 2010 up to the Apex Court but could not succeed and after that the present



contempt petition has been filed by the petitioner.

The show-cause has been filed on behalf of the opposite party nos. 2 to 5 and the Housing Board has come with specific case that after order of this court, the Housing Board constituted a Committee which decided to return the amount deposited by the petitioner with compensation and compound interest and the petitioner agreed to take deposited amount with compound interest as well as compensation before this court on 21.02.2018 but subsequently, the petitioner changed her stand and started insisting for delivery of allotted house in question.

Learned counsel appearing for the petitioner submits that this Court vide order dated 25.07.2014 passed in CWJC No. 9309 of 2010 gave three options to the Housing Board but the aforesaid three options were connected with each other as the housing board was bound to give reasons for none compliance of option no. 1 and, similarly, option no. 2, if the Housing Board was to comply with option no. 3 but in the present case, the reason given by the Housing Board is not proper because the Housing Board has not denied the availability of the allotted house rather the Housing Board has decided to return the deposited amount with compound interest and compensation as rate of allotted house has already increased.



Learned counsel for the petitioner further submits that the petitioner has specifically pleaded at Para- 10 of her reply that she is ready to take exclusive vacant possession of the concerned allotted plot on as it is where it is basis with permission to petitioner to make it inhabitable and pay to the petitioner any reasonable amount for carrying out such repairs. Learned counsel for the petitioner further submits that handing over the possession of the allotted house cannot be denied on the ground of increase in price of the allotted house and, therefore, it is clear that the Housing Board has not intentionally complied with the order of this Court in its letter and spirit.

On the other hand, learned counsel appearing for the Housing Board submits that on 21.02.2018, the petitioner agreed to take deposited amount with compound interest but subsequently, she changed her stand. However, the Housing Board has given specific reason for not handing over the vacant possession of the allotted house to the petitioner which is evident from Annexure- B to the first show-cause, filed on behalf of the opposite party nos. 2 to 5. He further submits that if the petitioner is aggrieved by the decision of the Committee, she may file a fresh writ against the decision of the Committee and the present dispute cannot be decided in this contempt petition. In support of his



contention he referred a decision **reported in 1996(6) SCC 291.**

It is an admitted position that while disposing of CWJC No. 9309 of 2010, this Court directed the Housing Board to enter into an agreement in connection with original house allotted to the petitioner and to hand over vacant possession of the aforesaid house to the petitioner after making the house inhabitable condition. Furthermore, this Court also directed that if the housing board is not in a position to hand over vacant possession of original allotted house to the petitioner after making the said house in inhabitable condition, then the Housing Board was directed to allot different MIG plot/premises to the petitioner. Furthermore, it is observed that if the Housing Board is not able to fulfill the above stated directions, in that circumstance, the Housing Board was directed to return the deposited amount with 14% compound interest and Rs. 50.000/- as compensation to the petitioner in the present case. The Housing Board stated in its show-cause that the house allotted to the petitioner has not been allotted to any other person rather the show-cause of the Housing Board reveals that the said house is still available though not in inhabitable condition. The Housing Board denied to hand over possession of the allotted house to the petitioner on the ground that the cost of the aforesaid house has already increased and heavy



amount is needed for making the aforesaid house inhabitable. Furthermore, the Housing Board has denied to comply with the second option on the ground that no MIG plot/premises built up in about 2 kattha is available. It is obvious from the aforesaid fact that the Housing Board was in a position to comply with the first option but the Housing Board denied to comply with the first option given by this Court vide order dated 25.07.2014 in CWJC No. 9309 of 2010, on the ground that heavy expenditure is needed for making the aforesaid house in inhabitable condition. Therefore, it is obvious that the Housing Board has intentionally avoided the order of this Court on frivulous ground. The petitioner is ready to take possession of allotted house with condition that she will not claim any further amount for making the aforesaid house in inhabitable condition.

Therefore, in my view, there is no hurdle before the Housing Board to hand over the possession of allotted house to the petitioner with the above stated condition. So far filing of fresh writ petition for getting possession of allotted house is concerned, in my view the decision of committee constituted by Housing board can be looked into in this petition as the said decision has come while complying with the order passed in CWJC No. 9309 of 2010 and, therefore, there is no need to file fresh writ petition



against the decision of the committee. In the aforesaid circumstance, show-cause filed on behalf of the Housing Board is, hereby, rejected. However, two months further time is granted to the Housing Board to comply with the order of this Court in its letter and spirit, failing which the contempt proceeding shall be initiated against all the concerned persons

Accordingly, this petition stands disposed of giving liberty to the petitioner to file a fresh petition, if the opposite party nos. 2 to 5 fail to comply with the order of this Court within the period as stated above.

(Hemant Kumar Srivastava, J)

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