

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.133 of 2016

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Nand Kishore Prasad, son of Late Sital Lal, resident of Mohalla (Mira Kishore Sadan), Nawab Path, New Bye Pass Road, Anishabad, P.S.-Gardanibagh, District-Patna.

.... Petitioner

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Urban Development Department, Government of Bihar, New Secretariat, Baily Road, Patna.
2. The Bihar State Housing Co-operative Federation Lalit Bhawan, Patna.
3. The Director/Administration, the Bihar State Housing Co-operative Federation, Lalit Bhawan, Patna.
4. The Regional Officer, the Bihar State Housing Co-operative Federation, Lalit Bhawan, Patna.
5. The Registrar, Bihar State Housing Co-operative Federation, Lalit Bhawan, Patna.
6. The Assistant, Liquidator, the Bihar State Housing Co-operative Federation, Lalit Bhawan, Patna
7. The Secretary of Evergreen Co-operative Society, Paschim Darwaja, Patna City, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.N. Parvat, Sr. Advocate
Mrs. Sudha Ambastha, Advocate

For the Respondent-State : Ms. Jahan Ara, AC to GP-14

For the Respondent-Federation: Mr. Purushottam Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-02-2018



The petitioner had applied for sanction of loan for construction of his house through the Secretary, Evergreen Co-operative Housing Construction Society Ltd. to the Bihar State Housing Co-operative Federation, which is an apex society for primary housing co-operative societies, State of Bihar. He had mortgaged the papers of his land for obtaining the said loan through the Secretary, Evergreen Co-operative Housing Construction Society Ltd. to the Bihar State Housing Co-operative Federation.

2. The Bihar State Housing Co-operative Federation sanctioned the loan and released first installment through the Secretary, Evergreen Co-operative Housing Construction Society Ltd., but the Secretary did not give the said amount to the petitioner. Subsequently, at the instance of the Administrator of the Bihar State Housing Co-operative Federation, the petitioner received two installments directly through the Federation, which he has already liquidated. He preferred Case No.149 of 2014 under Section 48 of the Bihar Co-operative Societies Act, 1935 to get back the mortgaged papers of his land. The Bihar State Housing Co-operative Federation took a plea that the Evergreen Co-operative Housing Construction Society Ltd. of which the petitioner was a member had not been impleaded as party. The Federation pleaded that the petitioner himself accepted that he is a member of the Evergreen



Co-operative Housing Construction Society Ltd. and, thus, without impleading the society of which he was member, the case preferred under Section 48 of the Bihar Co-operative Societies Act, 1953 was not maintainable.

3. On hearing the parties, the Deputy Registrar, Co-operative Societies, vide order dated 12.06.2015, held that the case to be not maintainable under Section 48 of the Bihar Co-operative Societies Act, 1953 mainly on the ground of non-impleadment of the Evergreen Co-operative Housing Construction Society Ltd. as a party.

4. It is submitted by Mr. M.N. Parvat, learned Senior Advocate appearing for the petitioner that only on ground of non-impleadment of the society as a party, the learned Deputy Registrar, Co-operative Societies ought not to have dismissed the application. He submitted that in case the Evergreen Co-operative Housing Construction Society Ltd. was a necessary party, he ought to have allowed the same to be made as a party to the case. He submitted that it would be in the interest of justice to remand the matter back so that the matter could be decided on merit after allowing the petitioner to implead the Evergreen Co-operative Housing Construction Society Ltd. as party respondent and after hearing the parties on merits.



5. Learned counsel appearing for the Bihar State Housing Co-operative Federation and learned counsel appearing for the State do not oppose the prayer of the petitioner to the extent that the matter be decided on merit after allowing the petitioner to implead the Secretary, Evergreen Co-operative Housing Construction Society Ltd. as a party respondent.

6. Having regard to the facts and circumstances of the case, with consent of the parties, the impugned order dated 12.06.2015 is set aside. In case the petitioner files a fresh petition under Section 48 of the Bihar Co-operative Societies Act, 1935 before the Registrar, Co-operative Societies after impleading the Evergreen Co-operative Housing Construction Society Ltd. as party respondent, he shall be required to decide the same on merit after hearing the parties in accordance with law.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2018
Transmission Date	NA

