

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14411 of 2013

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Gopal Bind, Son of Ramashish Bind, Resident of House No. 38 of the Homeless,
Behind the Museum, Mandiri, Patna, P.O., G.P.O., District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chairman, Bihar State Housing Board, Patna.
2. The Secretary, Bihar State Housing Board, 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 House, Building and Residence, Bihar.
7. Mahendra Dom, Son of not known, Resident of House No. 38 of the Homeless,
Behind the Museum, Mandiri, Patna, P.O., G.P.O. Patna, District- Patna.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 8254 of 2017

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Surti Devi, wife of Late Mahendra Ram, Resident of Begharon-Ka-Ghar No.-38,
South Mandiri, Hariyan Colony, P.S.- 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, P.S.- Buddha Colony, District- Patna.

.... Respondent/s

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Appearance :

(In CWJC No.14411 of 2013)

For the Petitioner/s : Mr. Alok Kumar, Adv.

Mr. Virendra Kumar, Adv.

For the Respondent/s : Mr. Neeraj Kr. Sinha, AC to PAAG-2

For the Respondent-BSHB : Mr. Anshuman Singh, Adv.

(In CWJC No.8254 of 2017)

For the Petitioner/s : None

For the Respondent/s : Mr. Subhash Pd. Singh, GA-3

Mr. Dilip Kumar, AC to GA-3

For the Respondent-BSHB : Dr. Anand Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-05-2018



Re: CWJC No.8254 of 2017:

None appears on behalf of the petitioner. Counsel for the State and Dr. Anand Kumar, learned counsel appearing for the Housing Board are present.

This writ petition was earlier taken up on 2.5.2018 for analogous hearing with CWJC No.14411 of 2013 but since the counsel for the petitioner expressed difficulty that the matter was adjourned and has been taken up for consideration today when there is no representation on behalf of the petitioner.

The reason for this writ petition being heard analogous with CWJC No.14411 of 2013 is because the House No.38, Mohalla- Mandiri in the town and district of Patna claimed by the petitioner in CWJC No.14411 of 2013 by succession is in fact occupied by the petitioner in CWJC No.8254 of 2017 namely Surti Devi. It is because the notice was issued to Surti Devi to vacate the house by the Bihar State Housing Board, to take effective steps for its allotment in favour of the petitioner in CWJC No.14411 of 2013 that she came before this Court through the writ petition in question and since the writ petition of Gopal Bind was already pending consideration on the inaction of the Housing Board in allotting the house that, by order dated 6.11.2017 passed in CWJC No.8254 of 2017 the said writ petition was directed to be heard analogous with



CWJC No.14411 of 2013.

Perusal of the pleadings in CWJC No.8254 of 2017 would confirm that the house in question was never allotted to the petitioner Surti Devi who is in fact a trespasser in the house in question. In fact it is her stand that since her house got washed away in the flood of 1975 that the authorities of the Housing Board have allowed her to occupy the House No.38, Mohalla- Mandiri in the Town and District of Patna which is the subject matter of the present litigation. Except placing reliance on her statement of continuing in the house for the last 40 years there is nothing on record of the writ petition arising from CWJC No.8254 of 2017, which would vest any right in the petitioner Surti Devi to occupy the house in question. In fact her admission in the writ petition makes her an interloper/a trespasser, occupying the house in question illegally.

A counter affidavit is filed on behalf of the Housing Board and Dr. Anand Kumar, learned counsel appearing on behalf of the Housing Board in reference thereto has submitted that while the Voter Card of Surti Devi shows that she was residing at 15, China Kothi, Budha Colony in the town and district of Patna since 2003, she is illegally occupying the house in question without allotment. The statement made in the counter affidavit filed in CWJC No.8254



of 2017 categorizing the petitioner Surti Devi as an unauthorized occupant of House No.38, Mohalla- Mandiri has not been contested by the said petitioner by enclosing any document supporting her right of occupation.

Re: CWJC No.14411 of 2013:

In so far as the claim of petitioner in CWJC No.14411 of 2013, Gopal Bind is concerned, the allotment of the house in question was in favour of his father Ramashish Bind and is not disputed nor is the allotment disputed.

Mr. Anshuman Singh, learned counsel appearing for the Housing Board in CWJC No.14411 of 2013 attributes the delay due to illegal occupation of the house by the petitioner in CWJC No.8254 of 2017, Surti Devi and in view of the pendency of her writ petition before this Court. It is admitted that it is due to such position that neither the father of the petitioner Ramashish Bind nor his son Gopal Bind has been given possession over the house in question by the authorities of the Housing Board.

In the nature of the issue raised and taken note of I do not feel the necessity of giving an exhaustive discussion to uphold the legal right vested in the petitioner Gopal Bind to claim allotment/possession of the house in question while dismiss any right in the petitioner Surti Devi, to continue therein.



In result, while finding no merit in the contention advanced by petitioner Surti Devi to continue her illegal occupation in the house in question, I am persuaded to dismiss CWJC No.8254 of 2017. Alongside, I would direct the Managing Director, Bihar State Housing Board to take necessary steps for handing over the possession of the house in question in favour of the petitioner Gopal Bind in CWJC No.14411 of 2013 in accordance with law and considering the delay let the exercise be completed within three months from the date of receipt/production of a copy of this judgment.

In result, CWJC No.8254 of 2017 is dismissed while CWJC No.14411 of 2013 is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24-05-2018
Transmission Date	NA

