

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16483 of 2016

Dr. Shukla Singh @ Shukla Mahanty W/o Mr. R.N. Mahanty, R/o Principal's Residence, Jamshedpur Women's College, P.S.- Bistupur, Jamshedpur, District- East Singhbhum, Jharkhand.

... .. Petitioner/s

Versus

1. The Bihar State Housing Board through its Chairman-Cum- Managing Director, Patna.
2. The Estate Manager, Bihar State Housing Board, Patna.
3. The Revenue Officer, Bihar State Housing Board, Patna.
4. The Executive Engineer, Division-2 Bihar State Housing Board, Patna, Bahadurpur, Patna.
5. The State of Bihar through Urban Development Department Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jayanta Ray Choudhary, Advocate.
	:	Mr. Binay Kumar, Advocate.
For the Respondent/s	:	Mr. Kinkar Kumar-S.C.- 9.
	:	A.C. to S.C. 9
For the Housing Board	:	Mr. Pawan Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 18-04-2019

1. Heard learned counsel for the petitioner and counsel appearing on behalf of the State as well as Housing Board.
2. Petitioner has applied for allotment of flat and he was allotted HIG flat bearing no. 7HF-5/19 in the year 1990 vide letter no.658/Aa dated 17.3.90. On dated 28.10.1993 price of the flat was fixed Rs. 3,47,906/- (Rs. Three lacs forty-seven thousand nine hundred six only) out of which petitioner deposited Rs. 1, 63,443/-(rupees one lakh sixty-three thousand four hundred forty-three only) was paid by the petitioner and remaining amount



Rs.1,84,663/- (rupees one lac eighty-four thousand six hundred sixty-three only) payable in installments.

3. After execution of the agreement petitioner was given possession of the flat on 03.06.1996. The Housing Board after calculating the installments amount as well as interest informed the petitioner vide letter no. 1501 dated 10.12.2003 for payment of Rs. 3,14,746/- (rupees three lacs fourteen thousand seven hundred forty-six only) which was calculated upto November 2003.

4. After receiving of certain payment in 2012 the Housing Board issued notice on the Website inviting the allottees to make the one time settlement by depositing the arrears amount in one lump sum.

5. So far as petitioner case is concerned in the proposal the Housing Board indicated the outstanding dues towards price of the flat Rs. 7,49,196.89 (Seven lacs forty-nine thousand one hundred ninety-six rupees eighty-nine paise). In response to the aforesaid notice of one time settlement petitioner deposited Rs. 7,49,196.89 (Seven lacs forty-nine thousand one hundred ninety-six rupees eighty-nine paise) through bank draft bearing no. 230726 dated 14.03.2012. Petitioner further claim is that he was informed by the Housing Board that additional amount of Rs.



16,117/- (rupees sixteen thousand one hundred seventeen only) was required to be paid for interest upto 31.03.2012. Even that amount was deposited by the petitioner vide Challan dated 29.03.2012 but despite taking step for registry of the HIG flat no action was taken by the Housing Board. On 4.9.2015 the Housing Board issued notice demanding Rs. 24, 09,875.88 (rupees twenty-four lacs nine thousand eight hundred seventy five and eighty-eight paise) (Anenxure-7 series) coupled with new calculation chart.

6. Learned counsel for the petitioner submits that the Housing Board has acted in teeth of their own promise by floating one time settlement scheme and offered final settlement on depositing of Rs. 7,49,196.89 (seven lacs forty-nine thousand one hundred ninety-six rupees eighty-nine paise) as it indicated hereinafter the Housing Board after receipt of one time settlement amount has acted dishonestly and raised demand of Rs. 24, 09,875.88 (rupees twenty-four lacs nine thousand eight hundred seventy five and eighty-eight paise). Such action of the authority like Housing Board is not only illegal, arbitrary but abuse of exercise of power.

7. Learned counsel appearing on behalf of the Housing Board would submit that it is a case of cancellation of allotment



because the petitioner has failed to deposit Rs.24, 09,875.88 (rupees twenty-four lacs nine thousand eight hundred seventy-five and eighty-eight paise) therefore, the present writ petition is not maintainable.

8. Considering the totality of the fact situation as discussed hereinabove, the Court is of the considered opinion that the Housing Board is making claim to make money from the innocent allottees taking advantage of their golden silence, incompetence and illegal act. Conceptually one time settlement is designed to settle entire score and once the Housing Board has flouted the scheme of one time settlement and petitioner has accepted that proposal and deposited the amount under one time settlement, the Housing Board is precluded from changing its position as proposal of one time settlement accepted by the allottees irreversible. The Housing Board cannot be allowed to take the plea that they have resiled from proposal of settlement by way of one time settlement as the Housing Board has accepted the agreed one time settlement amount deposited by the petitioner. After accepting one time settlement amount raising further demand of Rs. 24, 09,875.88 (rupees twenty-four lacs nine thousand eight hundred seventy five and eighty-eight paise) by the Housing Board is against all canon of law and in peculiar facts and circumstances



of the case the Court has reasoned to believe that such exercise of power is fraudulent exercise of power and as such unsustainable in eyes of law. Accordingly, the Court is constraint to allow the writ petition and quash the order of demand contained in Annexure-7 series. The Housing Board is hereby directed to take step for completion of formalities as to registry of the HIG flat No. 7H5/1990 to the petitioner within maximum period of 60 days on deposit of the necessary stamp duty required for registry by the petitioner.

9. With the aforesaid the writ petition stands allowed. In the event there is any delay on the part of the Housing Board in taking step for registry, the Housing Board shall require to pay cost of Rs.1000/- for each day of delay.

(Anil Kumar Upadhyay, J)

T.Kr./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20.4.2019
Transmission Date	NA

