

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10450 of 2014

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Madhuri Devi wife of Kumar Shashi Bhusan, Resident of village Semal Sarai,
Post Dev Bahuwara Nagra, P.S. Marhowrah, District Saran Chapra.

... .. Petitioner/s

Versus

1. The Chairman Cum Managing Director Bihar State Housing Board, 6 Sardar Patel Marg, Patna-15
2. The Manager, Estate, Bihar State Housing Board, 6, Sardar Patel Marg, Patna - 15.
3. The Estate Officer, Bihar State Housing Board, Patna.
4. The Executive Engineer, Bihar State Housing Board, Muzaffarpur Division, Damodarpur, Muzaffarpur.
5. Srimati Madhuri Devi wife of Sri Mithlesh Kumar Srivastava Resident of village East Dahiyawan Tola P.S. Chapra Town District Saran, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh, Adv.
For the Respondent/s : Mr. Anshuman Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 15-11-2019

The present writ petition has been filed for quashing the letter dated 15.01.2013 issued by the Executive Engineer, Bihar State Housing Board (hereinafter referred to as “the Board”), Muzaffarpur whereby and whereunder the petitioner has been intimated that the plot bearing No. EP-69 has been allotted in favour of one other person namely Madhuri Devi i.e. the respondent no.5 herein. It is further prayed that the respondent Board be directed to allot the aforesaid plot No. EP-69 situated at Sadha, Chapra in favour of the petitioner herein inasmuch as the same was allotted initially to the petitioner vide



letter dated 28.08.1998.

2. The brief facts of the case, according to the petitioner, is that she had applied before the Bihar State Housing Board, Patna in proper format on 04.04.1994 for allotment of plot at Sadha Chapra and had also deposited the requisite fee for allotment of plot No. EP-69. After about four years of making of such application for allotment of plot, the respondent Board vide letter dated 28.08.1998 had issued an allotment letter, allotting plot no. EP-69, situated at Sadha, Chapra, in favour of the petitioner whereafter the petitioner had completed all the formalities, however, she could not execute the agreement on account of her husband suffering from heart disease. Subsequently, the petitioner is stated to have filed various complaints before the respondent Board, whereupon the Estate Officer of the respondent Board, vide letter dated 11.01.2013 had informed the petitioner to come with all the requisite papers, photo I.D. card etc. so that further action can be taken. Thereafter, the petitioner had approached the authorities of the respondent Board and submitted the requisite papers, nonetheless on 15.01.2013, the Executive Engineer of the respondent Board, Muzaffarpur had sent a letter to the petitioner stating that the aforesaid plot has already been allotted and an



agreement had been entered into with one other lady, namely, Smt. Madhuri Devi wife of Shri Mithlesh Kumar Srivastava. It is the contention of the learned counsel for the petitioner that despite allotment having been made in favour of the petitioner and the Estate Officer of the respondent Board having written to the petitioner to complete the formalities, the petitioner has been deprived of her legitimate right to put in possession of the aforesaid plot in question.

3. Per contra, the learned counsel appearing for the respondent Board, by referring to the counter affidavit filed in the present case, has submitted that initially the aforesaid plot in question was allotted in favour of the petitioner by means of draw of lots held on 07.11.1996 and an allotment letter dated 08.11.1996 was issued in favour of the petitioner herein, however, despite the letter being sent to the petitioner to complete the formalities for registration of agreement etc. dated 26.08.1998, the petitioner had failed to comply with the terms and conditions of the allotment letter, hence the allotment of the petitioner was cancelled and the said plot in question was allotted in favour of one other lady namely Madhuri Devi and thereafter the said Madhuri Devi i.e. the respondent no.5 herein had deposited the requisite money/ sale consideration and then



the physical possession of the said plot was handed over to her on 07.05.2011. It has been further submitted by the learned counsel for the respondent Board that after fifteen years, the petitioner gave an application on affidavit dated 26.09.2012 for revival of the allotment in her favour and expressed desire to deposit the cost of the plot in question in one go, whereafter, the case of the petitioner was processed afresh and the Estate Officer vide letter dated 11.01.2013 intimated the petitioner to appear before him. Now coming back to the initial allotment made in favour of the petitioner, it is submitted that since the petitioner failed to appear within the mandatory time frame of 30 days for execution of the agreement, the allotment made to the petitioner had stood cancelled automatically, nonetheless, it is submitted that the case of the petitioner can be resolved if the petitioner appears before the Managing Director of the respondent Board.

4. Having regard to the facts and circumstances of the case, it is apparent that the petitioner had failed to appear within the stipulated time before the respondent authorities, hence the allotment made in favour of the petitioner had stood cancelled automatically and consequently the possession of the plot in question could not be handed over to the petitioner, however,



since the respondent Board is willing to resolve the issue as per the stand taken in the counter affidavit, especially in view of the fact that she is willing to pay entire consideration in one lump sum, this Court deems it fit and proper to relegate the petitioner to the remedy of approaching the Managing Director, Bihar State Housing Board, Patna by filing an appropriate representation within a period of eight weeks from today, which shall be decided by the Managing Director of the respondent Board by a reasoned and a speaking order within a period of eight weeks thereafter, in accordance with law, considering the case of the petitioner sympathetically.

5. The writ petition stands disposed of on the aforesaid terms.

Tiwary/-

(Mohit Kumar Shah, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.11.2019
Transmission Date	N/A

