

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10858 of 2014

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Safila Khatoon, wife of Md. Salauddin Khan, resident of Quarter No. L/127,
Housing Board Colony, Leharla Sarai, P.O. and P.S. Leharla Sarai, District-
Darbhanga (Bihar).

... .. Petitioner/s

Versus

1. Bihar State Housing Board through its Managing Director, Patna
2. Revenue Officer, Bihar State Housing Board, Patna
3. Manager (Estate)-cum-Additional Secretary, Bihar State Housing Board,
Patna
4. Executive Engineer, Bihar State Housing Board, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siyaram Shahi Mr.Nafisuzzoha
For the Respondent/s	:	
For Housing Board	:	Mr. Anshuman Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 16-05-2019 Heard learned counsel for the petitioner and the
Housing Board.

2. The petitioner has approached this Court for a
direction to quash the letter no. 887 dated 1.2.2014 issued by the
Revenue Officer, Bihar Housing Board, Patna whereby
petitioner was asked to deposit Rs. 4,43,346.81/-.

3. The petitioner was allotted lower income group
house No. 4196 vide letter no. 135 dated 22.2.1997.

4. On 14.3.1997 tentative price was indicated as Rs.
62,800/-. On 13.11.1998 a hire purchase agreement was entered
into with the Executive Engineer, Bihar State Housing Board



indicating tentative price as Rs. 62,800/- and Rs. 12,560 to be deposited by the petitioner and petitioner was asked to deposit the rest amount in 120 instalments of Rs. 858. Vide letter No. 958 dated 9.9.2000, the petitioner was informed that in place of L196 house L127 has been allotted to the petitioner and the petitioner was asked to deposit advance amount for agreement and possession of the house.

5. It is to be noted here that under the agreement dated 13.11.1998 the petitioner was asked to deposit Rs. 62800/- On 22.9.2013 the tentative price of Rs. 62,800 till 30.9.1993 as mentioned in the allotment letter and petitioner was asked to deposit Rs. 8,12,969.17. On 1.2.2014 the petitioner was directed to deposit Rs. 4,43,346.81 for registration of the house allotted to the petitioner. The demand made by the Housing Board prima facie appears to be illegal, arbitrary and against the law. The scheme of the Housing Board for lower income group has become now illusory as the Board taking advantage of better bargaining has raised demand which ex facie shows that it is not affordable by people of lower income group.

6. This Court has occasion to deprecate the arbitrary fixation of price and raising demand, taking advantage of their better bargaining, in C.W.J.C. No. 4452 of 2014 for the reasons



stated in the C.W.J.C. 4452 of 2014 the Court is inclined to allow this writ petition. Accordingly, the demand raised is quashed. The Housing Board is directed to work out the actual price when the Housing Board handed over possession of the flat to the petitioner. So far as realization of interest from the date of allotment is concerned, the Court does not approve such demand of interest as that would amount to taking advantage of its own wrong of causing delay in construction of flat and realizing interest over the price for their own incompetence.

7. The Housing Board is accordingly directed to raise a fresh demand after calculating the price of the flat on the date of allotment on 22.2.1997 and thereafter deducting tentative price paid by the petitioner realise the balance amount. While raising fresh demand Housing Board shall not realize the interest from the date of allotment, but from the date of execution of agreement. The Housing Board shall not realize any interest on dues after payment of last installment as per the agreement dated 17.09.1991, except the penalty for delayed payment of installment. Fresh demand shall be raised by the Housing Board within a period of 60 days from the date of receipt/production of a copy of this order and the petitioner would deposit the entire amount within a further period of 60



days and thereafter the Housing Board would execute the deed in favour of the petitioner after completing all the formalities.

8. Necessary fees shall be paid by the petitioner for registration of flat.

9. With the aforesaid observations, this application is allowed and disposed o

(Anil Kumar Upadhyay, J)

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