

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.672 of 2014

Manoj Kumar Bansal, Son of Shri Mangu Ram, Resident Of C/O Binod & Co. Muradpur, P.S. Pirbahore, Town and District- Patna

... .. Petitioner/s

Versus

1. The Bihar State Housing Board having its Office at 6, Sardar Patel Marg, Patna through its Managing Director
2. The Managing Director, Bihar State Housing Board, having its Office at 6, Sardar Patel Marg, Patna
3. The Revenue Officer, Bihar State Housing Board, having its Office at 6, Sardar Patel Marg, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Advocate Mr. Alok Kumar Agrawal, Advocate Mrs. Priya Gupta, Advocate
For the Respondent/s	:	Mr. Ansuman Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 25-04-2019

Heard Mr. S.D. Sanjay, learned senior counsel appearing on behalf of the petitioner and Mr. Ansuman Singh, learned counsel appearing on behalf of Housing Board.

2. The petitioner has filed the present application for quashing of the letter dated 27.11.2013 issued by the Revenue Officer, Bihar State Housing Board, by which the respondent threatened cancellation of allotment for non-payment of demand raised in lieu of interest to the tune of Rs.1,54,58,129.70/-.

3. The original price of the plot was Rs.9 lacs in auction purchase. The auction was held on 04.02.1984 on higher purchase basis for a period of 66 years.



4. Learned counsel for the petitioner submits that the present case is a telling tale of taking advantage of total inaction and incompetence of the Housing Board and penalizing the allottee/petitioner for the admitted inaction on behalf of the Housing Board. He has drawn the attention of the Court to various letters issued and enclosed with the writ application. Mr. Sanjay, learned counsel for the petitioner submits that the petitioner in terms of the auction notice deposited security amount Rs.10,000/- and he further deposited 90,000/- (10 % of the bid amount) on 09.02.1984 and further Rs.1,25,000/- (15% of the bid amount) on 27.03.1984. After deposit of 25% of the bid amount, the plot was allotted to the petitioner vide letter no. 311 dated 06.06.1984 and the deed of agreement was registered between the petitioner and the Housing Board and possession of the land was handed over to the petitioner on 26.08.1989. In terms of the hire purchase agreement, the petitioner paid the entire amount, the last installment was paid on 18.11.1993.

5. Learned counsel for the petitioner submits that after payment of the entire amount, the petitioner approached the respondent Board for completing all the remaining formalities for registration of the deed as per hire purchase agreement. The contention of the petitioner is that after 19 long years slumber, the



respondent served notice on 22.03.2012 raising a demand for a sum of Rs.1,11,01,844.43/- as interest against the original price of the plot i.e. Rs.9,00,000/- (Nine lacs). In response of the aforesaid demand notice, the petitioner filed representation detailing the calculation of the amount paid and submitted that nothing is now payable by the petitioner and there is manifest error in the calculation in raising demand.

6. Surprisingly on 27.11.2013, the Housing Board raised another demand of Rs.1,54,58,129.71/-. It is in the aforesaid background, the petitioner has filed the present writ application.

7. The order-sheet of this case indicates that time and again indulgence was granted by the Court to the Housing Board. The Court believed that the Housing Board will come out with true facts and figure and assist the Court in settling the dispute between the petitioner and the Housing Board.

8. In the instant case, The Housing Board filed three counter affidavits. In the first counter affidavit, the following stand was taken in para 6 to 22, which are quoted herein below for ready reference:

“6. That in the aforesaid context it is very relevant to submit most humbly that the petitioner has been allotted a commercial plot bearing Plot no. DS-30 consisting of



area about 7.30 Katha, situated at Lohiya Nagar, Kankarbagh, Patna vide public auction held on 04.02.1984 as the petitioner was highest bidder and had quoted the rate of Rs.9.00 Lacs (Rupees Nine Lacs Only) for the said plot. The BSHB vide Letter No. 2000/AA dt. 06.06.1984 had duly informed the petitioner about the allotment of said plot in his favour.

7. That s is not out of place to submit most humbly that in terms of spirit of transaction, the petitioner had to deposit 25% of the total value i.e. Rs.2,25,000/- (Rupees Two lacs and twenty five thousand only) and rest 75% of the total value of the said plot in six equal half yearly installments with interest @14% if the installment is/was paid on or before 15th of effective month (in the terms of clause 4 of the Agreement) and in case of delayed payment with interest @18%. It was also stipulated in the clause 8 of agreement that if allot fails to pay two consecutive installments allotment in his favour may get cancelled and amount deposited by him will also get ceased.

8. That it is further submitted humbly that Agreement for allotment was executed between the parties on 25.02.1989 and the said was registered finally on 16.03.1989. Possession of the said plot was handed over to the petitioner on 26.08.1989.

9. That it is very much pertinent to submit most humbly that in the terms contained in the clause 6 and 7 of the allotment Letter, it was obligator/mandatory on the part of the allottee to execute the agreement with the submission of ad volarum stamp paper alogwith the site plan with the BSHB. Only after depositing the same with the BSHB and execution of Agreement and after due



compliance of all formalities, the possession of the said plot was to be delivered to the petitioner in accordance with the terms and conditions of the agreement.

10. That it is very much relevant to submit in the aforementioned context that latches on the part of the petitioner may also be got apparent from the fact that the petitioner executed agreement with the BSHB on 25.02.1989 and the same was registered on 16.03.1989. After lapse of about 5 years of time from the date of Allotment, the said agreement was executed and registered and such act on the part of petitioner is clear violation of the terms as are contained in the Allotment Letter order.

11. That the petition will fully and deliberately delayed the execution of Agreement also avoided to take the physical possession of the allotted plot.

12. That it was most humbly submitted that the petitioner had submitted application dt. 25.01.1995 informing thereby the Estate Officer of the BSHB that he took the possession of the plot on 26.08.1989. In response to the said letter, the then Estate Officer vide Letter No. 583/AA dt. 18.02.1995 had asked report from the Executive Engineer, Division-I, BSHB, Patna and the Executive Engineer vide Letter No. 900 dt. 02.03.1995 had reported that the physical possession of the commercial plot No. DS30 Lohiya Nagar, Patna has been delivered to the allottee on 10.12.1991 with regard to dispute concerning the dispute of physical possession to allottee, the then Executive Engineer, Patna, Division-1, BSHB again in reference to the BSHB's Letter No.583/AA dt. 18.02.95 reported vide Letter No.882 dt. 02.03.1995 that the Junior Engineer of Division-I has



delivered the physical possession of the Plot to the allottee on 26.08.1989.

13. That it is not out of place to submit most humbly that the BSHB vide Letter No.1639/AA dt. 08.05.1995 and Letter No.1097/AA dt. 22.2.97 had directed the allottee categorically to submit the approved map from PRDA of construction on the allotted plot in 3 copies and from records it appears that the petitioner prefer to not to comply the said directions and in this way is playing hide and seek with the BSHB and also with the law and is trying to get advantage of his own wrongs.

14. That it is also very relevant to submit most humbly that vide Letter No.3175/AA dt. 06.10.1998, the BSHB had demanded the report showing the date wise deposit made by the allottee from the Executive Engineer of concerned Division who in turn vide its Letter No.2257 dt. 15.09.2000 provided the detailed report regarding the deposit of amount, which are being reproduced herein below:-

Deposit Before Execution of Agreement

04.02.1984	Rs. 10000/-	Vide M.R. 181/098016 of Div.-I, Patna
09.02.1984	Rs.90,000/-	Vide M.R. 181/098025 of Div.-I, Patna
27.02.1984	Rs.225,000/-	Vide M.R. 181/098065 of Div.-I, Patna

(Rupees Two Lacs and Twenty Five Thousand only)

Deposit of Installments

27.09.1991	Rs.125000/-	Vie M.R. 530/057181 of Div.-I, Patna
02.06.1992	Rs.2,50,000/-	Vide M.R. 602/073800 of Div.-I, Patna
22.10.1992	Rs.150,000/-	Vide M.R. 650/083517 of Div.-I, Patna
18.11.1993	Rs. 1,50,000/-	Vide M.R.779/070481 of Div.-I, Patna

Total Rs, 6,75,000/- (Rupees Six Lacs and Seventy Five Thousand)



15. That it is not out of place to submit most humbly that the BSHB after getting the report above mentioned vide Letter No.2257 dt. 15.09.2000 from the Executive Engineer and after getting the recalculation concerning the price of Plot vide its Letter No. 10 dt. 03.01.2001 demanded the petitioner to deposit the amount of Rs.18,24,731/- (Rupees Eighteen Lacs Twenty Four Thousand Seven Hundred Thirty One only) as on 31.01.2001 or to deposit Rs.18,52,199/- (Rupees Eighteen Lacs Fifty Two Thousand one hundred and Ninety Nine only) on 28.02.2001 and copy of the said letter was endorsed to the Executive Engineer, Div.-I, BSHB, Patna.

16. That it is also not out of place to submit most humbly further that the Executive Engineer in reference to the above mentioned letter of the (Board) BSHB had also sent reminder to the petitioner with a copy to the Revenue Office, BSHB, Patna.

17. That it is most humbly submitted that the Revenue Office BSHB in reference to the Letter dt. 03.01.2001 had also sent reminder enclosing the copy of the Letter dt. 03.01.2001 of the BSHB and requested therein to provide information concerning the deposit of Balance amount and to provide explanation regarding non-construction of Plot No.D-30. It appears from the records that the petitioner preferred to sit over the issue and has not deposited the balance amount within time.

18. That it is very relevant to submit most humbly that BSHB vide Letter No.1112 dt. 22.12.2011 again requested the allottee (petitioner) to deposite the balance amount Rs.1,11,01, 844.43 (Rupees One Crore Eleven Lacs one Thousand Eight Hundred Forty Four and Forty



Three Paise only) in terms of calculation till December, 2011 and also to complete the process of Registration with a copy of Executive Engineer, Div.-I BSHB, Patna.

19. That it is most humbly submitted that even after duly receiving the aforementioned communications from the side of BSHB, the petitioner preferred to sleep over the issue and after lapse of about one half years approached the BSHB through its duly engaged counsel on 29.07.2013 and requested for issuance of the calculation chart regarding the plot No. DS-30 Lohiya Nagar, Patna and the BSHB vide Letter No. 6520 dt. 07.08.2013 directed the petitioner to deposit the balance amount of Rs.147,57,185.78 (Rupees One Crore Forty Seven Lacs Fifty Seven Thousand One Hundred Eighty Five and Seventy Eight Paise only) as on August, 2013 with a copy to Executive Engineer, Div-1, Patna.

20. That it is also not out of place to submit most humbly that vide application dt. 07.10.2013 the petitioner approached the Managing Director, BSHB and started therein that BSHB had never raised claim regarding the due amount for the last 18 years and also requested therein to were the interest if any payable after the payment of the Principal amount.

21. That it is very much pertinent to submit in the aforementioned context that averments raised by the petitioner through its application dt. 07.10.2013 is manifest wrong as from the records it may be apparent that the BSHB has also always send demand notice to the writ petitioner but he preferred to not deposit the same within time and due to non-payment of balance amount the interest is adding.



22. That the BSHB vide Letter No. 9696 dt. 27.11.2013 again demanded the petitioner to deposit the balance amount of Rs.1,54,58,129.71 (Rupees One crore Fifty Four Lacs Fifty Eight Thousand one Hundred Twenty Nine and Seventy One Paise only) as on Dec. 2013 and also informed that the decision regarding calculation of Allotment will be made in the terms of Clause 21(c) of the Agreement and copy of the Letter was also forwarded to the Executive Engineer, Div.-I, Patna.”

9. Thereafter the Housing Board filed Suppl. Counter affidavit. In the Suppl. Counter affidavit, the statement was made that pursuant to the direction dated 11.06.2014 passed by the Special Enquiry Committee of the Vidhan Parishad, the petitioner was invited for talk to the Office of the Managing Director of the Board for resolution of the dispute and the petitioner raised query with regard to the demand raised and the petitioner was explained the computation of the amount in detail and the deliberation of the meeting dated 23.07.2014 was placed on record by way of Annexure-A to the suppl. counter affidavit. The stand was taken in the supplementary counter affidavit that if the petitioner is aggrieved he may approach the Housing Board for appropriate remedy. The petitioner thereafter filed rejoinder to the counter affidavit and enclosed the documents to show the fallacy in the demand raised by the Housing Board.



The Housing Board thereafter filed 2nd Supplementary Counter affidavit. The following stand has been taken in para 6 to 8 of the counter affidavit, which are quoted herein below for ready reference:

“Second supply. counter affidavit:-

6. That it is most humbly submitted that the last installment was paid by the allottee on 18.11.1993 amounting to Rs.1,50,000/- only and a sum of Rs.7,05,962.04 which reflects the principal amount. After adjustment of last installment of Rs.1,50,000/- sum of Rs.5,55,962.04 only comes as principal as on 01.12.1993. the same capitalised @ 18% i.e. for 20 years 1 month upto 31.12.2013 and amounts to Rs1,54,58,129.71 only. Upon further calculation upto 31.01.2015 I.e for one year one month the total amount comes to Rs.1,85,14,201.95 only.

7. That further it is most humbly submitted that the Pricing Committee has been constituted as an alternative forum to resolve the dispute of allottee such as the petitioner and to take into consideration various factors and then to decide the dispute as to what should be the hike.

8. That it is most humbly submitted that the Pricing Committee has been constituted under the order dated 20.10.1995 of this Hon'ble Court in the case of Smt. Suniti Sahay and another Vrs. The Bihar State Housing Board and Another, CWJC No. 47 of 1994 with CWJC No.2724 of 1994. It is most humbly submitted that the said final order and judgment dated 20.10.1995 in CWJC No.2724 of 1994 has been confirmed by this Hon'ble



Supreme Court of India vide its order dated 11.04.1997
in S L P © No.4331 of 1996.”

10. Again same plea was taken by the Housing Board that the dispute can be properly dealt with the Pricing Committee and the writ Court is not the proper forum. Thereafter, the Housing Board filed 3rd supplementary counter affidavit.

11. Since Mr. Ansuman Singh, learned counsel for the Housing Board heavily placed reliance on 3rd supplementary counter affidavit, it would appropriate to quote the stand taken by the Housing Board in the 3rd supplementary counter affidavit. For ready reference para 8 to 34 are quoted herein below:

Third supply. counter affidavit:-

“8. That it is important to mention here that the Bihar State Housing Board vide its letter as contained in memo no.3369 dated 02.09.1985 had again informed the petitioner, to take necessary steps till 20.09.1985, for settlement of agreement and for taking possession in his favour with regard to allotted commercial plot bearing Plot no. DS-30 situated at Lohiya Nagar, Kankarbagh, Patna.

9. That it is stated that the vide Board’s letter memo no.2266 dated 18.10.1986 informed the petitioner, to make available the photocopy of deposit receipt, which was deposited by the petitioner on account of the Plot no.DS-30.



10. That it is most humbly stated that, in view of the Board's letter memo 2266 dated 18.10.1986, a letter dated 09.01.1987 was issued by Om Prakash Agrawal stating therein that, in pursuance of the letter dated 18.10.1986, a money receipt of 25% deposited amount on account of Plot no.DS-30.

11. That vide Board's letter as contained in memo no.1347 dated 24.05.1989 by which petitioner was informed by the Board to take the possession of the land in his favour within 15 days from the date of issuance of the letter. Further stating therein that, the registration of the agreement was already made on 16.03.1989. If the petitioner will not take a possession within stipulated period, therefore, the installment amount will be started with regard to Plot No.DS-30 from next month.

12. That in view of the Board's letter as contained in memo no.1347 dated 24.05.1989, the response of the petitioner in this regard was completely at silent mode. Therefore, no option was left by the Board except to issue a show cause to the petitioner and accordingly, petitioner was asked to show cause as to why the allotment of Plot nos. DS-30 will be not cancelled because repeated times petitioner was served notice with regard to take a possession of the said land in his favour and also for not making payment of remaining dues on account of land in question. Vide Board's letter as contained in memo no.04 dated 08.01.1994.

13. That in view of the show cause notice contained in memo no. 04 dated 08.01.1994, the response of the petitioner in this regard was again at silent mode. Although, the reminder letter was also sent by the



Housing Board to the petitioner vide Board's letter as contained in memo no.4863 dated 14.11.1994.

14. That in response to the reminder letter dated 14.11.1994 by the Board, the petitioner has informed to the Board vide letter dated 25.01.1995, that he took the possession of the said plot on 26.08.1989 in pursuance of the Board's letter memo no.1347 dated 24.05.1989.

15. That vide Board's letter memo no. 1639 dated 08.05.1995, the Board had directed the petitioner to submit the approved map from PRDA of construction on the allotted Plot in 3 copies. Although, the response of the petitioner in this regard was silent.

16. That vide Board's letter memo no.1097 dated 22.02.1997, a reminder letter was also sent to the petitioner although, no response was taken by the petitioner. On the basis of record, it appears that the petitioner prefer not to comply the said directions intentionally.

17. That vide Board's letter memo no. 10 dated 03.01.2001, the Board has informed the petitioner that after making adjustment, the remaining amount of Rs.18,24,731 as on 31.01.2001, which to be paid by the petitioner.

18. That vide letter memo no. 48 dated 05.01.2001, the Executive Engineer in reference to the abovementioned letter of the Board had also sent reminder to the petitioner with a copy to the Revenue Office, BSHB, Patna.

19. That vide Board's letter memo no. 568 dated 01.02.2001, the petitioner has again informed by the Board to deposit the remaining dues amount o Rs. 18,52,199/- as on 28.02.2001, against the allotted plot in



question. It has been clearly stated in aforesaid letter that the petitioner has completely violated the Clause no. 13 of the “TERMS AND CONDITION” in said Executed Agreement. Because the petitioner has already been taken the possession of the said plot on 26.08.1989 in pursuance of the Board’s letter memo no. 1347 dated 24.05.1989. Although, after lapse of 10 years, the petitioner never construct the house upon the said Plot in question.

20. That it is important to mention here that as per Clause No. 13, of the “TERMS AND CONDITION” in said Executed Agreement, it is specifically mentioned that, which is as follows :-

Under Clause no.13 :-

“That the settle shall start construction within a period of two years of having been put in possession the allotted plot of land as per specifications and the designs and planning standards of the said building approved by the Government of any other authority and complete the construction in a further period of 3 years. It would also be obligatory on the part of the settlee to start and proceed with the construction exclusively accordingly to the Building plan approved by the Bihar State Housing Board, the Patna Regional Development Authority the authority prescribed under the Bihar Restriction of uses of Land Act 1948 and any other authority prescribed in any law, Rules, Regulations for the time being in force.”

21. That it is relevant to mention here that the Housing Board vide letter as contained in memo no.11112 dated 22.12.2011 again request was made to the petitioner to deposit the balance amount of Rs.1,11,01844.43/- in terms of calculation till December,



2011m so the process of registration may be completed. The said letter was also dispatched on 22.12.2011.

22. That it is humbly stated that even after lapse of about one and half years, the petitioner approached the Housing Board through its lawyer on 29.07.2013 and requested for issuance of the fresh calculation chart regarding the plot no. DS-30, Lohiya Nagar, Patna.

23. That it is humbly stated that vide Board's letter no.6520 dated 07.08.2013 directed the petitioner to deposit the balance amount of Rs.1,47,57,185.78 as on August 2013 with a copy to Executive Engineer, Div.-I, Patna. The said letter was dispatched on 07.08.2013.

24. That it is most humbly stated that vide application dated 07.10.2013, the petitioner approached the Managing Director, B.S.H.B, Patna and stating therein that kindly be ordered to recalculate the interest, if any, due on the date of last payment of the principal amount on 18.11.1993.

25. That it is humbly stated that, it is apparent from the record itself that the Housing Board has always send demand notice to the petitioner although, he preferred to not deposit the same within time and due to non-payment of balance amount the interest is adding.

26. That vide Board's letter no. 9696 dated 27.11.2013 again demanded the petitioner to deposit the balance amount of Rs.1,54,58,129.71/- and also informed that the decision regarding calculation of allotment will be made in the terms of Clause 21(C) of the Agreement and the copy of the letter was also forwarded to the Executive Engineer, Div.-I, Patna for information and necessary action. The said letter was dispatched on 27.11.2013.



27. That it is stated that vide letter dated 21.11.2013 issued by the Deputy Secretary, Bihar Vidhan Parishad and report called for from the Housing Board in pursuance to the applications filed by the petitioner, and also request was made to Managing Director, B.S.H.B. Patna to participate the meeting which is going to be held on 28.11.2013 at 2.00 PM along with relevant reports.

28. That it is stated that vide work list of meeting dated 28.11.2013 of Special Enquiry Committee regarding Housing Board, Patna.

29. that it is stated that vide report dated 28.11.2013 submitted by the Housing Board in a meeting dated 28.11.2013 of Special Enquiry Committee with regard to grievance of the petitioner is concerned.

30. That it is humbly stated that vide order dated 11.06.2014 passed by the Special Enquiry Committee, Vidhan Parishad, whereby the direction issued to Managing Director to settle the matter of the petitioner within 20 days after hearing both the parties.

31. That it is most humbly submitted that vide Board's letter memo no. 4067 dated 12.06.2014 passed by the Special Enquiry Committee of the Vidhan Parishad, the petitioner was invited for talk to the Office of the Managing Director of the respondent Board for settlement of the dispute between the instant petitioner and the respondent Board. The said letter was dispatched on 12.06.2014.

32. That it is most humbly submitted that the bilateral talks between the instant petitioner and the respondent Board commenced at 4.00 PM on 02.07.2014 in the Office of the Managing Director of the respondent Board and accordingly, issued proceeding report as contained in



letter memo no.5031 dated 23.07.2014 after considering all the relevant facts and documents submitted by both the parties. And the proceeding report was also sent to the Special Enquiry Committee of the Vidhan Parishad, for information and necessary action.

33. That vide Board's letter as contained in memo no. 1149 dated 26.12.2014, whereby the petitioner has informed to deposit the balance amount of Rs.1,79,70,995.13/- as on November, 2014. The same shall be deposited within 7 days from the date of receipt of the demand notice, otherwise necessary action would be taken by the Board, to cancel the aforesaid plot in question, for which the petitioner shall be held responsible. The said letter was dispatched on 26.12.2014.

34. That it is most humbly submitted that the writ petitioner has placed several allegations upon the Board which have no legs to stand and the petitioner should be put for strict proof the same. All the communication on behalf of the Board was done on the same address, petitioner had also after receiving them have responded and replied them."

12. In sum and substance, learned counsel for the Housing Board submitted that the dispute is only of calculation of interest and as such the Court may refer the matter to any Arbitrator so that the dispute of interest may be worked out and appropriately disposed of.



13. This writ application has consumed five years. This Court has noticed the arbitrary demand raised by the Housing Board in numerous cases. Granting any further indulgence by the Court will amount to granting premium to incompetence of the Housing Board. The Court is, therefore, not inclined to either refer the matter to the Arbitrator or to sirk the responsibility of deciding the present application.

14. It is true that it would be sound exercise of jurisdiction to better leave the issue of price to be decided by the Experts. The Court on principle is in agreement with the submission of Mr. Singh that the Court is not competent to decide the matter of price fixation, but the Court is definitely competent to decide the patent illegality in the decision making process by the Housing Board.

15. The issue involved in this case is not of calculation, but the issue is the discharge of responsibility of the authorities like the Housing Board and fastening accountability of paying interest to the allottee for the default of Board. The institution of Housing Board was established for the purpose to provide House, Land and Flats to the aspirants. Those who formulated the scheme of Housing Board in their widest dream never thought that the Housing Board will prove to be white



elephant some day. Over the last more than one decade, the Housing Board is only fomenting litigation and only litigation. Their other activities as to providing plot, flat and house is at the back seat. The Court is constrained to pass this observation in view of the compulsive Litigation for which the petitioner and others alike have to approach this Court invoking the jurisdiction of the Article 226 of the Constitution.

16. The basic idea behind the constitution of the Housing Board is not to mint money, the object is to provide flat, plot and house and for planned development of the town. The Housing Board measurably failed in the matter of town planning and in the matter of allotment of flat, plot and house.

17. The case of Digha is a celebrated example of its complete failure. The Court is constrained to take judicial notice of the different cases, which have come before this Court where the issue is one and the same that the Housing Board allots plots, flats and house and at the time of allotment they incorporated the condition that the price is tentative, but price never turn to be final without litigation. In the instant case where the price is fixed in the auction purchase. The Housing Board is instrumental in keeping the matter pending for years together and even decades and taking advantage of their indecisiveness and



incompetence in finalizing the price they raised demand by arbitrary calculation of interest component and every time the Housing Board used to toss blame on the allottee instead of introspecting their own total failure in the process of maintaining record.

18. From the materials available on record, it would be apparent that the Housing Board has noticed all the allottees to provide the copy of the deposit made by the allottees, which in order course of business is the responsibility of the Housing Board. Housing Board used to decide the entire issue of allotment, fixation and realization of the price and fixation of instalment and interest.

19. The facts of this case manifest that the Housing Board instead of instantly responded to the request made by the allottee, even took 19 years and taking advantage of their lapse have saddled the petitioner the with liability to pay interest. The Court failed to understand as to how in the instant case even after payment of price of Rs.9,00,000/- in terms of auction price, the Housing Board raised demand of Rs.1,85,14,201/-. The demand of Rs.1,85,14,201/- is eye opener how the Housing Board functions. Taking the case at the lowest ebb and applying



the test of common man, the Court is unable to accept the demand of Rs.1,85,14,201/-in the instant case as justified.

20. In the totality of the facts situation, the Court is compelled to hold that the demand is arbitrary. For raising such demand and compulsive litigation accountability has to be fixed. Somebody in the Housing Board has to take responsibility and I believe that the Managing Director of the Housing Board should come forward to take the responsibility for fixing accountability for compulsive litigation where the litigants/allottees have to approach this Court. The demand of Rs.1,85,14,201/- by any standard is not acceptable. Accordingly, the writ application is allowed. The demand raised by the Housing Board i.e. Rs.1,85,14,201/- is hereby quashed. In the event the Managing Director feels that there is anything not paid by the petitioner in terms of the auction purchase he will realize the interest in terms of the agreement for the period up to the last date of installment i.e. 1993 after hearing to the petitioner and fix that amount but not realize penal rate or realize compoundable interest but on the basis of simple interest. Necessary corrective measures may be taken by the Managing Director within a maximum period of two months after the general election and complete the remaining formalities as to the registration of the plot.



21. It goes without saying that the Managing Director of the Housing Board is required to take lead to put his house in order and fix the accountability on those, who are responsible for raising this kind of arbitrary demand.

22. With the aforesaid, this application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

uday/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	10.05.2019
Transmission Date	NA

