

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13371 of 2009

1. Smt. Moti Devi wife of Late Birendra Mohan Singh
2. Amar Pratap Singh S/o- Late Birendra Mohan Singh
3. Samar Pratap Singh S/o- Late Birendra Mohan Singh
4. Anil Pratap Singh S/o- Late Birendra Mohan Singh
5. Ajit Pratap Singh S/o- Late Birendra Mohan Singh
6. Ranjit Pratap Singh S/o- Late Birendra Mohan Singh
All resident of K.M Singh Lane, East Boring Canal Road, P.S-
Buddha Colony, Distt- Patna.

... .. Petitioners

Versus

1. The State of Bihar through the Registrar, Bihar Cooperative Societies, Government of Bihar, Patna.
2. The Assistant Registrar, Bihar Co- Operative Societies Government Of Bihar, Patna
3. The Bihar State Housing Co- Operative Federation Ltd. through its Managing Director, Lalit Bhawan, Jawaharlal Nehru Marg, Patna-1
4. The Administrator, Bihar State Housing Cooperative Federation Ltd., Lalit Bhawan , Jawaharlal Nehru Marg, Patna-1
5. The Secretary, Bihar State Housing Co- Operative Society Federation Ltd. Lalit Bhawan Jawaharlal Nehru Marg , Patna-1
6. The Rang Karmi Co- Operative Housing Society through its Chairman Sri Vinod Kumar, 2nd Floor ,Punjab and Sindh Bank, Fraser Road, Patna-20.
7. Sri Binod Kumar, the Chairman of Rang Karmi, Housing Society 2nd Floor Flat No.- 47, Ashro Pawan Apartment, Raza Bazar, Patna-14.
8. M/s. Ashray Engineers Private Limited, Patna through its Director Vinod Kumar - 42, Fraser Road, Patna (Punjab and Sindh Bank, Patna).

... .. Respondents

Appearance :

For the Petitioners	:	Mr.Vikas Kumar, Advocate
For the State	:	Mr.Sumant Kr. Singh, AC to G.A.2
For the Federation	:	Mr. Purshottam Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD



ORAL ORDER

13 08-04-2019 Heard learned counsel for the petitioners, learned counsel representing the State as also learned counsel for the Bihar State Housing Cooperative Federation Limited.

In this writ application, the petitioners are praying for issuance of an appropriate writ/order/direction for quashing of order contained in Memo No. 138 dated 29.01.2009 passed by the Assistant Registrar, Bihar State Cooperative Department (Respondent No.2) in Award Case No. 94 of 2006.

By the impugned order Respondent No. 2 has vide his order dated 29.01.2009 passed a decree of Rs. 80,49,827.07 against Rang Karmi Cooperative Housing Society (Respondent No. 6).

In course of hearing, Mr. Vikash Kumar, learned counsel for the petitioners has drawn attention of this court towards order dated 12.10.2009 and 17.11.2009 as also order dated 04.05.2015 to submit that despite several opportunities granted to the



Assistant Registrar, Cooperative Societies, whose order is under challenge vide Annexure-1 to the writ application, no counter affidavit has been filed till date on behalf of the State. Learned counsel submits that in the order dated 17.11.2009, this court has taken note of the facts showing that the Officer of the Federation and the developers acted collusively and on the basis of forged signature of these petitioners loans were sanctioned and disbursed to the developer. It is also pointed out that in fact it is the federation who has lodged a First Information Report alleging the several acts of omission and commission committed by the Officers of the Federation in collusion with the builder/developer in the matter of sanction and disbursement of loan.

Mr. Kumar has therefore tried to impress upon this court that he has a reason to challenge the impugned order as contained in Annexure-1 to the writ application inasmuch as the land which belonged to these petitioners are likely to be involved if the award as



contained in Annexure-1 to the writ application is executed.

Mr. Purshottam Jha, learned counsel representing the Bihar State Housing Cooperative Federation submits that this writ application itself is a collusive writ application with that of the Rang Karmi Sahkari Grih Nirman Samiti (Respondent No.6). It is submitted that on a bare perusal of the award dated 29.01.2009 as contained in Annexure-1 to the writ application, it would appear that even though these petitioners were the parties in the demand notice issued by the Federation but ultimately in the operative part of the award the decree has been passed only against the Rang Karmi Sahkari Grih Nirman Samiti (Respondent No.6), the then Secretary and President of the Samiti and not against these petitioners. Learned counsel submits that apparently the petitioners cannot claim any cause of action to challenge Annexure-‘1’ to the writ application because the award is not against them.

Contesting the submission of Mr. Vikash



Kumar, learned counsel that he had a cause of action to move this court because the land belonging to these petitioners are involved in the award, learned counsel submits that Annexure-1 is a mere award which has a face of decree but it nowhere talks of involvement of any land belonging to these petitioners. It is submitted that presently no execution case is pending for execution of the award and the petitioners are unable to show that any action has been taken against them or against the land belonging to them in execution of the award, therefore, it is submitted that the whole writ application is misconceived and is in fact espousing the cause of respondent no. 6 who has chosen not to appear before this court.

Learned counsel for the State is present but is unable to respond in absence of any counter affidavit before this court.

Having heard learned counsel for the parties and on perusal of the records, this court finds that once the submissions of Mr. Jha learned counsel for the



Housing Federation is gone into, it is crystal clear that the award is not against these petitioners. No execution case has been levied against these petitioners and no action has been taken in respect of the land of these petitioners in furtherance of execution of the award. This is the own stand of the Federation.

In this view of the matter, this writ application does not require any adjudication. The writ application is disposed of with liberty to the petitioners that in case they feel aggrieved by any action of the Federation in respect of their properties, they may seek their remedy in accordance with law.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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