

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11680 of 2015

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Biresh Kumar Sinha, son of Sri Shashi Bhushan Kumar Sinha, resident of
Mohalla- Mashraf Bazar, P.O. Lalbag, Ward No. 19, Dist. Darbhanga

... .. Petitioner/s

Versus

1. State Of Bihar through Principal Secretary, Revenue Department, Govt. of Bihar, Patna.
2. Divisional Commissioner, Darbhanga
3. The District Magistrate, Darbhanga
4. Municipal Commissioner, Darbhanga Municipal Corporation, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ray Saurabh Nath, Adv. Mr. Alok Anand, Adv.
For the Respondent/s	:	Mr. Adityanath Jha, AC to SC-18

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 21-02-2019 Heard learned counsel for the petitioner and learned
counsel representing the State. No one appears on behalf of
Darbhanga Municipal Corporation.

This writ application has been preferred for a
direction to the respondent authorities to act upon the memo
no.613 dated 06.12.2006 issued by Vice-Chairman, Darbhanga
Regional Development Authority, Darbhanga, as contained in
Annexure-7 to the writ application, by which the petitioner was
informed that since the entire money against allotted plot no.36
(‘A’ Type) has already been deposited, he should approach his
office for execution and registration of the transfer deed.

In the writ application, petitioner has made statements



that he had deposited initially a sum of Rs.12920/- on 27.03.1997 vide Annexure-4 to the writ application and further a sum of Rs.1,16,100/- was deposited vide Annexure-5 to the writ application in the year 2001. It appears from the statements made in paragraph 11 of the writ application that according to the petitioner he had made query from the Vice-Chairman, the then Darbhanga Regional Development Authority, Darbhanga regarding the procedure for registration and also about amount that needs to be deposited and in whose favour the said drat to be prepared. Petitioner has brought on record a copy of the letter dated 22.12.2006 as contained in Annexure-8 to the writ application.

Although, no one appears on behalf of the Darbhanga Municipal Corporation to represent, but a counter affidavit on its behalf is available on the record. According to counter affidavit, the then Darbhanga Regional Development Authority, Darbhanga merged with Darbhanga Municipal Corporation long back, but thereafter in the year 2014 a representation was filed on behalf of the petitioner stating therein that inspite of letter dated 22.06.2006 no reply was given to the petitioner. It is the stand of the Municipal Corporation that the petitioner has not placed relevant papers as yet and further the petitioner has not



approached before the authority for depositing the appropriate amount within the stipulated period of time for a month as it transpired from the records. Reference in this regard has been made to letter no.613 dated 06.12.2006 issued by the office of the then DRDA.

By filing rejoinder, the petitioner has challenged the statements made in paragraph 12 of the counter affidavit of the Darbhanga Municipal Corporation. It has been submitted that he had filed a representation seeking information with regard to the amount which was needed to be deposited and in whose favour the said draft was to be prepared since he was ready to deposit the same but it has never been replied nor the petitioner was ever intimated about the information sought by him by the respondents.

Learned counsel for the State is present.

However, in the given facts of this case, the contest is between the petitioner and the Darbhanga Municipal Corporation, the State has not much role to play.

Having heard learned counsel for the petitioner and learned counsel representing the State as also on going through the materials available on the record this much is evident to this Court that the petitioner seems to have deposited some money in



between the year 1997 to 2001. According to him he had submitted a letter dated 22.12.2006 as contained in Annexure-8 to the writ application and has requested the authorities concerned to inform about the amount needs to be deposited but it is not clear from Annexure-8 as to whether that was submitted in the office of the authorities concerned. The mode and manner in which the said letter as contained in Annexure-8 is said to have been submitted is also not stated in the writ application. There is in fact no explanation at all as to why from the year 2006 to the year 2014 the petitioner did not take any step to ventilate his grievance. This writ application has been filed in the year 2015, stating therein that in the year 2010 and in the year 2014 the petitioner had made representation to the authorities. It is also evident that according to his own case, the petitioner was still required to deposit some amount.

In the opinion of this Court, in the given facts and circumstances of the case, where the petitioner is unable to explain the delay and laches on his part in approaching this Court and then from his own averments it appears that pursuant to allotment of plot he had made certain payments but was still required to make some payments it is evident that the allotment made in favour of the petitioner has not resulted in actual



transfer of any right. The pleadings are also tentative in nature.

This Court sitting in its writ jurisdiction would not be acting as a fact finding court and cannot take up on itself the function of a court to enforce specific performance of contract that too when common law remedy which was otherwise available to the petitioner has become barred by limitation. The relief under Article 226 of the Constitution of India is in the nature of a discretionary relief and in the facts of the present case where the petitioner has moved this Court '9' years after the letter of allotment was issued to him, no relief may be granted to the petitioner. This may however not come in the way of the petitioner in pursuing his remedy if any available to him.

The writ application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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