

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17343 of 2017

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Dr. Nawal Kishore Sharma, Son of Late Gaya Prasad Sharma, Resident of
Village- Badgaon, P.O.- Badgaon, P.S.- Konch, District- Gaya.

... .. Petitioner/s

Versus

1. The Bihar State Housing Board Patna through its Managing Director, 8, Sardar Patel Marg, Patna-800015
2. The Managing Director, Bihar State Housing Board, 8, Sardar Patel Marg, Patna- 800015.
3. The Bhu Sampada Padadhikari, Bihar State Housing Board, 8, Sardar Patel Marg, Patna- 800015.
4. The Executive Engineer, Bihar State Housing Board, Gaya Division, Gaya.
5. The Junior Engineer, Bihar State Housing Board, Gaya Division, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar, Adv.
For the Respondent/s : Mr. Rabindra Kr. Priyadarshi, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 07-01-2020

Heard learned counsel for the parties.

2. The petitioner claims that he is the husband of late Malti Devi, who had applied for a residential plot at Mohalla Katari, Gaya through application No. 179486 dated 29.12.1981. His wife had submitted relevant documents and affidavits as required for allotment. She died on 08.10.1987.

3. It is the petitioner's case that he inherited the entire assets, which were existing in the name of his wife Malti Devi. He was waiting for any notice/ information from Bihar State Housing Board (hereinafter referred to as 'the Board') for allotment of



residential plot pursuant to application made by his wife. In 2012, he learnt about allotment of certain plots to other persons whereafter he submitted an application on 24.01.2012 seeking information regarding status of allotment of residential plot in the name of his wife. Nearly five years thereafter, on 03.12.2016, he again submitted a representation to the Board stating therein that his wife had submitted application for allotment of residential plot under prescribed form, who had died. It is his further case that when he approached the office of the Board on 12.06.2017 personally, he was shown a letter dated 29.04.2006 through which a plot was allotted in favour of the petitioner's deceased wife, through a lottery held in the head office of the Board on 29.04.2006. The allottee was required to deposit a sum of Rs. 82,378=00 against estimated cost of Rs. 2,74,593=00 of the plot and other relevant documents in the office of the Board at Gaya. It is the petitioner's grievance that the said letter dated 29.04.2006 was communicated to a wrong address and, therefore, the requirement of depositing the amount of Rs. 82,378=00 was not complied with. The petitioner is said to have approached the Board by making an application on 08.08.2017.

4. It is, thus, an admitted case of the petitioner that he had knowledge about submission of application by his wife in



1975 and 1981 for allotment of a residential plot at Mohalla Katari, Gaya. This is also an admitted fact that after his wife died on 08.10.1987, he did not inform the Board about her death. The plot, which got allotted by the Board on the basis of a lottery held in favour of petitioner's deceased wife, was evidently against a dead person because the Board was ignorant of her death. The petitioner's plea that he could not gather any information about allotment of plots in the area for long six years, does not appear to be convincing.

5. In the aforesaid background, the petitioner is seeking a direction to the Board to hand over the possession of the plot bearing No. K/2/MP-1, which was allotted in favour of the petitioner's wife through lottery held on 29.04.2006.

6. If the petitioner's own case is to be accepted, he learnt about allotment of certain plots in January, 2012 and, according to him, he approached the Board in December, 2016, nearly four years thereafter. Unexplained delay and laches on the part of the petitioner in pursuing his matter is, thus, writ large.

7. A counter affidavit has been filed on behalf of the Board from which it appears that there were two applications for allotment of residential plot which were filed in the name of Malti Devi. It is the Board's specific case that the application number of



the petitioner's wife was 179486, whereas application number of another Malti Devi was 196973. It is also the Board's case that plot No. K/2/MP-73 was allotted on the basis of lottery against application No. 179486 whereas plot No. K/2/MP-1 was allotted against application of Malti Devi being application No. 196973. As per the allotment letter, an allottee was required to deposit the aforesaid sum of Rs. 82,378=00 and enter into an agreement by 07.08.2006. It was indicated specifically in the allotment letter that in case the conditions of allotment were not complied with, the allotment would be deemed to be cancelled and the deposited amount would be forfeited. A plea has also been taken in the counter affidavit that the petitioner's wife Malti Devi had, in fact submitted two applications, by giving different descriptions in her application, which she could not have done. For the purpose of verification, the Court had directed the Board to produce the original records of the two applications No. 179486 and 196973. The original records have been produced, which I have perused.

8. On perusal of the original records it cannot be definitely said that petitioner's wife Malti Devi had filed two separate applications, as the husband's name of another Malti Devi, who had submitted her application with application No. 196973, is different and the address is also different.



9. Be that as it may, according to the petitioner's own case, the Board was not made known about the fact that his wife had died within a reasonable period after her death. The lottery was held 19 years after her death. The petitioner, in my view, cannot take advantage of result of a lottery held by the Board for allotment of plots, as technically there was no application pending before the Board for allotment of plot in favour of petitioner's wife, who was dead. The allotment itself was made by the Board in complete ignorance of the fact that the applicant had already died. In my view, therefore, this is the frivolous writ application, which deserves to be dismissed and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.01.2020
Transmission Date	NA

