

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1274 of 2019

In

Civil Writ Jurisdiction Case No.672 of 2014

-
1. The Bihar State Housing Board having its office at 6, Sardar Patel Marg, Patna through its Managing Director, Patna.
 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.

... .. Appellant/s

Versus

Manoj Kumar Bansal, S/o Sri Mangu Ram, R/o- C/o Binod and Co. Muradpur
P.S.- Pirbahore, Town and District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pawan Kumar, Adv.

For the Respondent/s : Mr. S.D.Sanjay, Sr. Adv.
Ms.Priya Gupta, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 20-02-2020

Re.: Interlocutory Application No. 02 of 2019

Considering the fact that sufficient cause has been shown to condone the delay in filing the appeal, the delay is condoned.

I.A.No. 02 of 2019 stands allowed accordingly.

Re.: L.P.A. No. 1274 of 2019

This appeal filed on 26.09.2019 is listed for hearing for the first time today before the Court.



Appellant has prayed to set aside the judgment and order dated 25.04.2019 passed in CWJC No. 672 of 2014 whereby the learned single Judge has allowed the writ petition by quashing the demand of Rs. 1,85,14,201/- raised by the Bihar State Housing Board. Further, The Hon'ble Court has been pleased to observe that in the event the Managing Director feels that there is anything yet to be paid by the petitioner in terms of the auction purchase, he will realise the interest in terms of the agreement for the period up to the last date of installment i.e., 1993 after hearing the petitioner and fix that amount, but not realise penal rate or realise 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 formalities as to the registration of the plot.

On 25th February, 1989, petitioner/respondent herein was allotted plot No. DS-30 for establishing commercial unit. This was pursuant to a public auction held on 04.02.1984, where the petitioner was confirmed to be the highest bidder i.e. bid of Rs. 9 lacs having been accepted by the appellant Bihar State Housing Board (hereinafter referred to as the 'Board'). Pursuant thereto, agreement for sale of plot was executed and possession



was handed over on 26th August, 1989. In terms of the agreement, petitioner was to deposit a sum of Rs. nine lacs in installments.

It is not in dispute that the said amount was paid in the following terms:

“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

(Rs. Two lacs and Twenty Five Thousand only)

Deposit of Installments

27.09.1991	Rs. 125000/-	Vide 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. 1,50,000/-	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)”

Thus, the principal amount stood paid. The only dispute is with regard to interest on the delayed payment. Noticeably, for more than 18 years, the Board sat over the matter and then one fine day, fastened a liability of Rs. 1, 85,14,201/- towards interest arising as a result of non-payment of the principal amount within the stipulated period of time.



It is this action of the authority/Board, which stands set aside by the learned single Judge vide impugned judgment dated 25.04.2019 passed in CWJC No. 672 of 2014 titled as Manoj Kumar Bansal vs. The Bihar State Housing Board & Ors.

Well, we do not find any illegality or perversity in the reasoning adopted by the learned single Judge or the finding returned. Learned single Judge has rightly held the action to be absolutely illegal for at no point of time, the amount deposited by the petitioner was accepted under protest or any issue with regard to delayed payment ever communicated or raised by the Board.

Adding further, we may observe that the amount stood accepted without any demur or objection. It is not that the petitioner was not available at his address or his whereabouts not known to the Board. It is also not that the Board was not functioning at the property.

In fact, petitioner was running the unit from the plot and the Board was also discharging its functions under the Statute. The money stood accepted in installments without any objection. Then on what basis, the Board could charge interest and that too on penal rate or compoundable rate, which is not borne out either from the agreement or from any statutory



power.

As such, the impugned action of the appellant, Bihar State Housing Board cannot be said to be sustainable in law and for all the aforesaid reasons, present appeal stands dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

U			
---	--	--	--

