

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1581 of 2019

=====

Manju Sathi W/o Late Kamala Kant Sathi Mohalla-East Dahiyawan, Mission Road, P.O.-Chhapra, Ps.-Chhapra Town, Distt.-Saran (Chhapra)

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Urban Department and Housing, Govt. of Bihar
2. The Managing Director, Bihar Housing Board, Patna
3. The Land Estate Officer, Bihar State Housing Board, Patna
4. The Executive Engineer, Bihar State Housing Board, Muzaffarpur

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Anil Kumar Mukund, Advocate
For the Respondent/s : Mr.Subash Prasad Singh (GA 3)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
C.A.V. JUDGMENT

Date : 31-08-2022

1. The present writ petition has been filed for directing the respondent authorities of the Bihar State Housing Board to register Plot no. HP-142, situated at Sadha, Chhapra in the name of the petitioner who is the widow of Late Kamla Kant Sathi in whose name, the said plot was allotted on 08.11.1996.

2. The brief facts of the case, according to the petitioner, are that the deceased husband of the petitioner had applied for allotment of Plot at Sadha, Chhapra, whereafter he was allotted Plot no. HP-142 on 08.11.1996, however he unfortunately died on 04.11.1998. The petitioner is stated to have gone to the office of the Land Estate Officer of the



respondent- Bihar State Housing Board to inform about the death of her husband and had requested for transferring the said Plot in her name, however the agreement *qua* the said Plot in question could not be executed. Subsequently, the Land Estate Officer, Bihar State Housing Board, Patna vide letter dated 22.08.2017 informed the petitioner that pursuant to the death of the original allottee, the said land in question i.e. Plot no. HP-142 is being transferred in the name of the petitioner, subject to fulfillment of all the terms and conditions which were applicable upon the previous allottee. It is the further case of the petitioner that the husband of the petitioner had deposited a sum of Rs. 31,744/- for the Plot in question, however till date, the respondent- Housing Board has failed to register the Plot in question in the name of the petitioner.

3. A counter affidavit has been filed on behalf of respondents no. 2 to 4, wherein the respondent- Housing Board has taken a stand that the said Plot no. HP-142 situated at Sadha, Chhapra was allotted to the deceased husband of the petitioner namely Kamala Kant Sathi vide letter dated 08.11.1996, issued by the Bihar State Housing Board at a tentative price of Rs. 1,23,480/-. It has been stated that Clause 4(a) of the aforesaid Allotment Order contained in Letter no. 112 dated 08.11.1996



clearly stipulates that the amount, as given in Clause 4 i.e. a sum of Rs. 31,744/-, has to be deposited within 30 days from the date of order of allotment and the allottee should get the agreement executed within 60 days of the allotment order. The said allotment order further specifies that if the allottee fails to either deposit the amount within 30 days or get the agreement executed within 60 days i.e. till 31.12.1996 then it will be understood that the allottee does not require the plot/ land and the allotment shall be automatically cancelled and 20% of the deposited amount shall be confiscated. The allottee died on 04.11.1998 but the Head Office of the Board and the Divisional Office of the Board, not being aware of the death of the Original allottee, vide Letter no. 1183 dated 08.03.1999 and Letter no. 281 dated 17.03.1999, asked the original allottee to complete the formalities with respect to execution of the agreement and get the agreement registered within 30 days. The said letters were sent by the Executive Engineer, Muzaffarpur Division in the name of the original allottee. It is further stated that the aforesaid payment was made belatedly by the petitioner on 31.12.1996 i.e. much later than the date fixed, as stipulated in Clause 6 of the said Allotment Order. Thereafter, the petitioner had submitted incomplete documents for change of name in her



favour with respect to the said land in question, however, the requisite and complete documents came to be submitted by the petitioner only in the year, 2017, whereafter, the respondent-Board vide letter dated 22.08.2017 changed the name in favour of the petitioner, however with a stipulation that the terms and conditions which were applicable to the original allottee, will also be applicable upon the petitioner.

4. The learned counsel for the respondent-Board has also submitted that Clause 6 of the Allotment Order clearly stipulates that if the agreement is not executed within the prescribed time, the allotment shall be cancelled. It is also stated that as per Office Order of the respondent- Board bearing Order no. 8499 dated 26.09.2012, the allotment can be revived after obtaining the outstanding amount, either based on upto date market value of the cancelled property/ property in cancellation category or on the basis of upto date market value, as revised by the Board, whichever is higher.

5. The learned counsel for the respondent- Board has further stated that the Board, vide order no. 10216 dated 28.11.2012, had extended the time period upto 31.01.2013, for the purposes of revival of the cancelled property/ allotment, which was again extended to 30.04.2014, however, at present



the process of revival of the cancelled allotment is under suspension. It has also been submitted that the petitioner had filed a case bearing no. 999950127111701550/2A, wherein the Principal Secretary, Urban Development and Housing Department-cum-Second Appellate Authority, Bihar, Patna had passed the final order on 12.02.2019, observing therein that since at present, the process of revival is under suspension, the complainant is advised to await the decision of the Board of Directors of Bihar State Housing Board for revival of allotment of Plot, since the Board of Directors has the power to revive. Finally it is submitted that in case, the respondent- Board comes up with any scheme for revival, the case of the petitioner herein would be considered sympathetically.

6. I have heard the learned counsel for the parties and perused the materials on record. A bare perusal of the allotment letter dated 08.11.1996, issued in favour of the deceased husband of the petitioner by the respondent- Bihar State Housing Board, more particularly Clause 6 thereof, would depict that in case, the allottee fails to deposit the amount in question within the stipulated time frame as also fails to get the agreement executed, it would be understood that the allottee does not require land/ plot in question, hence the allotment shall



automatically stand cancelled. It is a matter of record, not disputed by the petitioner herein, that that the petitioner, after the death of her husband i.e. the original allottee, had deposited a sum of Rs. 31,744/- vide Money Receipt no. 767/35 dated 23.03.1999 in the name of her deceased husband with the Office of the Executive Engineer, Magadh Division of the respondent- Board belatedly inasmuch as the said amount was required to be deposited on or before 31.12.1996, resulting in automatic cancellation of the allotment. As regards change of name in the records of the respondent- Board, in favour of the petitioner, by the Board vide letter dated 22.08.2017, is concerned, this Court finds that the same has been carried out only to facilitate communication with the dependents of the allottee in future. This Court also finds that though several opportunities were granted to the petitioner to deposit the revised value of the plot in question and for executing the agreement, however the petitioner failed to avail the same. Moreover, this Court finds that as a policy decision, the respondent- Board has consciously decided not to revive the lapsed/ cancelled allotments. Having regard to the aforesaid aspect of the matter as also considering the fact that there has been gross delay & laches on the part of the deceased husband



of the petitioner/ the petitioner in depositing the amount in question, which in any case was not deposited within the stipulated time, the allotment of the plot in question has inevitably stood cancelled automatically and there being no revival scheme at the moment, no relief can be granted by this Court to the petitioner herein. Consequently, the present writ petition stands dismissed, being devoid of any merit.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	08.08.2022
Uploading Date	01.09.2022
Transmission Date	NA

