

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.184 of 2020
In
CIVIL REVIEW No.253 of 2009

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1. The Bihar State Housing Board, Patna through its Chairman, Office situated in Bangles Road, Patna.
 2. The Managing Director, Bihar State Housing Board, its office situated in Bangles Road, Patna.
 3. The Manager Estate, Bihar State Housing Board, its office situated in Bangles Road, Patna.

... .. Appellant/s

Versus

Braj Nandan Singh Son of Late Ram Chandra Singh, Resident of Village- Bihta, Post Office and P.S.- Bihta, District- Patna at present residing in Mohalla- Lohia Nagar, Kankarbagh, Police Station- Kankarbagh, Patna-20, District- Patna.

... .. Respondent/s

with
Letters Patent Appeal No. 1534 of 2018
In
Civil Writ Jurisdiction Case No.14781 of 2007

1. The Bihar State Housing Board, Patna through its Chairman, Office situated in Bangles Road, Patna.
2. The Managing Director, Bihar State Housing Board, its office situated in Bangles Road, Patna.
3. The Manager Estate, Bihar State Housing Board, its office situated in Bangles Road, Patna.

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Versus

Braj Nandan Singh son of Late Ram Chandra Singh resident of Village- Bihta, Post Office and P.S.- Bihta, District- Patna at present residing in Mohalla- Lohia Nagar, Kankarbagh, Patna- 20, District- Patna.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 184 of 2020)

For the Appellant/s : Smt.Binita Singh, Adv.

For the Respondent/s : Mr. Krishna Mohan Mishra, Adv.

(In Letters Patent Appeal No. 1534 of 2018)

For the Appellant/s : Smt.Binita Singh, Adv.

For the Respondent/s : Mr. Prasoon Kumar, Adv.



**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

Date : 14-11-2022

L.P.A. No.184 of 2020 and L.P.A. No.1534 of 2018 have been heard together and are being disposed of by this common order.

The respondent auction-purchased a plot of land in Kankarbagh, measuring around 3.81 kathas, the price of which was fixed at Rs. 3.50 lacs. After executing the higher purchase agreement in 1984, the possession of land was given to the respondent. A sum of Rs. 2,37,500/- was paid by the respondent initially. Later, it appeared to the Board/appellant that there was some default in the payment of few installments and basing its decision on such breach of higher-purchase agreement viz. non-payment of installment in time, the power to cancel the allotment was invoked and the allotment was cancelled by order dated 21.12.1993. When the respondent challenged the aforesaid order of



cancellation of allotment of the Board/appellant, vide C.W.J.C. No.1344 of 1994, a Bench of this Court found that the order passed by the Board suffered from the vice of non-compliance of one of the basic Rules of principle of natural justice i.e. the right to be heard. Obviously, therefore, the matter was remanded to the Board for taking a final decision after hearing of the respondent. The matter remained pending with the Board till 2007, when a decision was taken by the Board that the respondent was obligated to pay an amount of Rs. 33,42,623/-, which would be inclusive of the interest. This assessment of the Board was also challenged subsequently.

In the afore-noted proceeding i.e. C.W.J.C. No.14781 of 2007, a Bench of this Court, way back on 13.05.2008, rejected the contention of the Board that under similar circumstances, the case of one of the other allottees was assessed till 1999 and the same yardstick needs to and has been applied in case of respondent.



The contention of the respondent, however, was that in view of the matter having remained pending before the Board for long 13 years, the assessment was required to be made only till 1994 and not beyond. The contention of the Board for observing parity in cases of different allottees was, however, rejected by the learned Single Judge with the reason that in the case of the respondent, even though no time-limit was fixed for passing a fresh order, but it was given that in the absence of any prescribed time-frame, the order of the Court had to be complied with within a reasonable time, which reasonableness could be measured in terms of the issues, which in that case was required to be assessed keeping in mind the fact that there was a remand for re-hearing of the matter and re-determination for violation of principle of natural justice within a period of two-three months, which was not done.

This being the sole ground for rejecting the plea of parity by the Board, the Board was put under an



obligation to determine the dues of the respondent only till October, 1994 and not as on 31.12.1999.

Against the afore-noted order in the writ petition, a civil review was filed in the year 2009, vide Civil Review No. 253 of 2009, which, for the first time, was taken up for consideration on 11.09.2018, when the review petition was dismissed. All this while, the matter remained pending and after the disposal of the civil review petition, referred to above, the present L.P.A., i.e. L.P.A. No. 1534 of 2018, was filed. An appeal was also preferred against the order of review, vide L.P.A. No. 184 of 2020.

After having heard the learned counsel for the appellants in both the appeals, we find no justification for interference for the reason that this matter remained pending for consideration for more than a decade, notwithstanding the pendency of the review petition, which delay cannot be attributed to the respondent. During the course of hearing, we have been informed



that the order so passed in C.W.J.C. No. 14781 of 2007
has already been complied with.

With such fact scenario, we do not intend to
interfere with the order passed in 2008 in L.P.A. No.
1534 of 2018 as also with the order passed in review
(Civil Review No. 253 of 2009 in L.P.A. No.184 of
2020).

Both the appeals are, thus, dismissed.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

Mahesh/HR

AFR/NAFR	NAFR
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