

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.267 of 2021

In

Civil Writ Jurisdiction Case No.16275 of 2016

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1. The Bihar State Housing Board, Patna through its Chairman.
 2. The Managing Director, Bihar State Housing Board, Patna.
 3. The Revenue Officer, Bihar State Housing Board, Patna.
 4. The Chairman, Price Fixation Committee, Bihar State Housing Board, Patna.
 5. The Executive Engineer, Bihar State Housing Board, Division Damodarpur, Muzaffarpur.
 6. The Manager Estate-cum-Additional Secretary, Bihar State Housing Board, Patna.
 7. The Deputy Revenue Officer, Bihar State Housing Board, Patna.

... .. Appellant/s

Versus

1. Uma Devi Wife of Late Dharmatma Ram Dwivedi Resident of Village Pakari Mohammad Post Office- Paiga, P.S. Amnour, District- Saran at Present Sadha Housing Colony Chapra, MIG- 115, P.O. Sadha P.S. Chapra Mufasil, District- Saran.
2. Nityanand Dwivedi Son of Late Dharmatma Ram Dwivedi Resident of Village- Pakari Mohammad Post Office- Paiga, P.S.- Amnour, District- Saran at Present Sadha Housing Colony, Chapra, MIG- 115, P.O. Sadha P.S. Chapra Mufasil, District- Saran.
3. Babua Nand Dwivedi Son of Late Dharmatma Ram Dwivedi Resident of Village- Pakari Mohammad Post Office- Paiga, P.S.- Amnour, District- Saran at Present Sadha Housing Colony Chapra, MIG- 115, P.O. Sadha P.S. Chapra Mufasil, District- Saran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dr. Anand Kumar, Adv.

For the Respondent/s : Mr. Sanjay Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

4 30-06-2022 Heard Dr. Anand Kumar, the learned Advocate for

the appellant/Housing Board and Mr. Sanjay Kumar Singh,

the learned Advocate for the respondents.



The respondents had approached this Court against the demand notice of Rs.92,018/- which was to be paid to the Housing Board with respect to plot bearing MP No.115 in area Sadha Chapra as also against the order dated 22.04.2016 passed by the Chairman, Price Fixation Committee, Bihar State Housing Board.

The respondents are the heirs of the original allottee, who was allotted the plot under the Middle Income Group (MIG) scheme on 09.05.1994. The allotment letter was issued to the original allottee, fixing the price of the land at Rs.74,425/-. With respect to the said allotment, the hire purchase agreement was executed on 25.05.1999 in which also the tentative price for the plot was fixed at Rs.74,425/-. In 2006 (27.06.2006), another demand of Rs.92,018/- was put up by the appellant/Board on the ground that there was some default in carrying out the obligations under the agreement by the allottee. Against the aforesaid letter of demand of Rs.92,018/-, the original allottee had approached this Court vide C.W.J.C. No.12585 of 2007.

The matter, under the orders of the Bench, was remitted to the Price Fixation Committee for fixing the price which the original allottee was required to pay and such order



was directed to be passed in a speaking manner.

Consequently, the Price Fixation Committee vide order dated 22.04.2014 found that the original allottee had delayed in making payments and therefore such escalation cost which had been saddled on him was justified.

The order of the Price Fixation Committee reflects that the allotment was made in the year 1996 but the agreement was executed in the year 1999 and, therefore, anybody who was at fault was the original allottee and not the Board.

The learned Single Judge found that no good ground was given by the Price Fixation Committee for holding that the payment was delayed only because of the inaction of the allottee. It was noted by the learned Single Judge that the original allottee was asked to execute an agreement only on 08.02.1999, which fact was never controverted before the Pricing Committee. Thus, the three years' hiatus between the allotment and the hypothecation agreement was clearly not attributable to the allottee. On this score alone, the learned Single Judge was of the view that the laches if at all, was on the part of the Board, and therefore, the order passed by the Price Fixation Committee became highly suspect in the eyes



of law.

The demand letter as well as the order passed by the Chairman of the Price Fixation Committee dated 22.04.2014 was therefore set aside.

Dr. Anand Kumar, learned Advocate has submitted that the delay of three years, if cannot be saddled solely on the allottee, cannot also be attributed to the Board exclusively. If no document was placed before Price Fixation Committee with respect to the justification of the delay of three years in executing the agreement after the allotment, the allottee also ought to have placed on record any proof of the fact that the agreement was prevented at the instance of the Board. Apart from this, it has been submitted that in accordance with the rules and regulations of the Housing Board, which permits of saddling of escalation cost at the market rate has completely been ignored by the learned Single Judge. He further submits that the learned Single Judge did not have the wherewithals to test the correctness of the decision of the Price Fixation Committee, which alone had the tools and the mechanism for fixing and quantifying the amount on account of delay in execution of the agreement.

All the aforesaid grounds have been noted by us for



the purposes of being rejected.

The Board has slapped the demand notice on the heirs of the allottee/respondents and, therefore, the Board is under an obligation to explain that the delay was on account of the allottee not executing the hypothecation agreement in time.

Since the order passed by the Price Fixation Committee does not at all explain or take into account the reasons for delay in executing the hypothecation agreement, there is no justification for saddling any escalation cost by way of penalty on the respondents, who have stepped into the shoes of the original allottee, he having already left the world of living.

There is no merit in this appeal and thus we are left with no option but to dismiss the same.

The appeal stands dismissed, but without any order as to costs.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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