

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.485 of 2021**  
**In**  
**Civil Writ Jurisdiction Case No.20653 of 2012**

- =====
1. The Managing Director, Bihar State Housing Board Patna.
  2. The Manager, Land Estate Bihar Housing Board, Patna.
  3. The Secretary Bihar State Housing Board, Bihar, Patna.
  4. The Superintending Engineer, Bihar State Housing Board, Patna.
  5. The Executive Engineer, Bihar State Housing Board, Patna.

... .. Appellant/s

Versus

1. Shashi Bhushan Prasad Singh Son of Late Bachchan Prasad Singh Resident of Village - Sarmera, P.S. Sarmera, in the District of Nalanda.
2. The State of Bihar, through its Principal Secretary, Building Construction and Housing Department, Government of Bihar, Patna.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Anshuman Singh, Adv.  
For the Respondent/s : Mr.Lalit Kishore (Ag)

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**and**  
**HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY**  
ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

3      01-11-2022                      Certain defects which have been pointed out by

the   Stamp   Reporter, the   learned   lawyer   for   the



appellant/Housing Board says, have been removed.

We believe his statement.

Re: **Interlocutory Application No. 01 of 2022**

The learned counsel for the appellant also presses the Interlocutory Application for condoning the delay in preferring this appeal.

For the reasons stated in the Interlocutory Application, the delay in preferring the appeal is condoned.

The Interlocutory Application No. 1 of 2022 is allowed.

**L.P.A. No. 485/2021**

We have heard Mr. Anshuman Singh, the learned Advocate for the appellant/Bihar State Housing Board (hereinafter referred to as "the Board"), who has assailed the order dated 23.08.2019 passed by the learned Single Judge in C.W.J.C No. 20653 of 2012.

It appears from the records that a plot of land had been allotted to respondent No. 1 on 21.10.1981 and initial amount, quantum of which was fixed by the Board was paid by such allottee. Later, after many years, on



13.07.2007, the Secretary of the Board appears to have informed the Board that Plot No. G-627 at Lohianagar in Patna which was allotted to respondent No. 1, has been made free of all encumbrances and encroachments and further suggested that after realizing the current price from the allottee, an agreement could be entered into and he be given final possession of the said land. However, such recommendation of the Secretary of the Board was rejected by the Board in its 222<sup>nd</sup> meeting which was held on 21.07.2007 without disclosing any reason whatsoever.

Mr. Anshuman Singh, the learned Advocate for the appellants has submitted that from the writ records it can be clearly demonstrated that because of the respondent not having completed the formality of making the entire payment and entering into agreement with the Board, the process of allotment was not completed, which perhaps was the only reason for rejecting the recommendation of the Secretary of the Board to enter into fresh agreement with the allottee/respondent No.1 after realizing the current price of the land in question.



We have perused the records and the counter affidavit filed on behalf of the Board in the writ proceedings. The writ petitioner/respondent No. 1 had brought on record the copy of the Board's meeting dated 21.08.2007 which *inter alia* states that a decision was taken to allot plot No. G-627 to the respondent no. 1 on 16.10.1981 which was signed by the Officer- in- Charge of Estates on 21.10.1981 but the same was never issued.

In the same Board meeting, it was further deliberated that the same plot was encroached upon by one Bodha Ram Yadav, who had been intimated by the Board to remove the encroachment. An eviction suit was also filed by the Housing Board *vide* Eviction Suit No. 10 of 1996 in which an order was passed against the aforesaid encroacher (Bodha Ram Yadav) which was challenged by him before the Appellate Authority *vide* appeal No. 1 of 1998, which too stood dismissed.

Aforesaid Bodha Ram Yadav had challenged the afore-noted orders of his eviction before this Court in C.W.J.C No. 469 of 2000, which was also not entertained.



The Board in its meeting further resolved that all allotments made till 01.12.1981 in which allotment orders have been issued, be regularized after enquiry and in such matters where allotment orders have not been issued till that cut off date namely 01.12.1981, be not considered for allotment.

It appears from such resolution of the Board that because allotment letter was not issued to the respondent No. 1 on or before 01.12.1981 for whatever reason, the Board has rejected the proposal of the Secretary for entering into fresh agreement with the allottee / respondent No. 1 after realizing the current price.

There is nothing in the records of the Board meetings which would indicate the reason for non-issuance of the letter of allotment notwithstanding the respondent no. 1/allottee having deposited the initial amount which was accepted by the Board. It further appears from the resolution on record that the land in question remained under encroachment and litigation with one Bodha Ram Yadav for a long time which could be made free from all



encumbrances only in the year 2007, when the Secretary of the Board had made the recommendation in favor of the respondent No. 1.

Finding no reason given by the Board to reject such proposal, specially in view of the fact that there is nothing on record to indicate as to why the initial allotment letter pursuant to which final payments could have been made by the allottee was issued and that the land in question remained under encroachment, there was no good reason for the Board to stick to its resolution that in all such cases where allotment letters have not been issued till 01.12.1981, no further allotment be made.

Such a blanket resolve would surely not cover the case of the respondent no. 1 without any reason whatsoever.

We do not find from the records any plausible reason for non-issuance of allotment letter in the first instance. The argument of Mr. Anshuman Singh, the learned Advocate, that because of the respondent no. 1 not having completed the formalities of making payments,



allotment letter was not issued, is incorrect and not borne out by records. The money would have been paid only if the allotment letter would have been issued. From the own showing of the Board which is reflected in the concerned Board meeting resolutions it appears that such allotment order was not issued, notwithstanding a decision having been taken regarding such allotment and the Estate Officer having signed such decision.

Under such circumstances, we do not find the decision of the Board, rejecting the proposal of Secretary of the Board in favor of the respondent, to be justified on any account.

Precisely for this reason, the learned Single Judge has directed the Board to assess the balance amount of land in question to be realized from the respondent no. 1 for the purposes of entering into agreement and ultimately handing over the possession of the aforesaid Plot No. G-627 to him.

Neither do we find this order to be bad on any ground nor the counsel for the appellant has made out any



case for interference with such order.

There is no merit in this appeal and consequently  
it is dismissed.

**(Ashutosh Kumar, J)**

**( Nawneet Kumar Pandey, J)**

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