

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7941 of 2021

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Shabistan Parween W/o Irshad Ahmad Siddiquie, Resident of E.W.S. House
NO.-J.H./67 Damodarpur, Muzaffarpur Awas Board Colony,, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Managing Director, Bihar State Awas Board, Patna, 6, Sardar Patel Marg, Patna.
2. Bhusampada Padadhikari, Bihar State Awas, Board, Patna.
3. The Revenue Officer, Bihar State Awas, Board, Patna.
4. The Secretary, Bihar State Awas, Board, Patna.
5. The Executive Engineer, Bihar State Housing Board, Muzaffarpur Division, N.H.28, Damodarpur Housing Colony Damodarpur, Muzaffarpur.
6. The Assistant Engineer, Bihar State Housing Board, Damodarpur, Muzaffarpur.
7. The State of Bihar through the Principal Secretary Urban Development Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shankar Kishore Shahi, Advocate
For the BSHB	:	Mr. Shashi Ranjan, Advocate
For the Respondent/s	:	Mr. Arun Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 02-02-2023 Heard Mr. Shankar Kishore Shahi, learned counsel

appearing on behalf of the petitioner, Mr. Shashi Ranjan, learned

counsel for the Bihar State Housing Board, Patna and Mr. Arun

Kumar, learned counsel for the State.

2. Learned counsel appearing on behalf of the petitioner

seeks to make certain typographical correction in paragraph no.

1 of the writ petition.

3. The same is allowed.

4. A detailed order was passed on 11.01.2023. However,



in compliance of direction of this Court, the Bihar State Housing Board, Patna has not been able to bring on record the proposed project which the Bihar State Housing Board is intending to come up with in the area where the house of the petitioner is situated. However, from the perusal of the counter affidavit it appears that they have not denied the grievance of the petitioner but the same is being delayed by the respondent-Bihar State Housing Board on account of the fact that a new project is being prepared by transaction advisory (J.L.L.) and after the transfer of new proposal by the Bihar State Housing Board, any decision on the matter of the petitioner can be taken.

5. As on date, the Bihar State Housing Board has not approved new venture which it wants to undertake. They had admitted in paragraph no. 9 of the counter affidavit that E.W.S. House No. J-67 has been allotted by the Bihar State Housing Board, Patna in favour of Rabia Khatoon vide Letter No. 628 dated 22.06.1993. They have also admitted that entire price of the house relating to J-67 has been paid by the mother of the petitioner (Late Rabia Khatoon), original allottee and thereafter, possession of the House No. J-67 at Damoderpur, Muzaffarpur was handed over to the petitioner's mother, Late Rabia Khatoon (allottee) on 12.10.2001 where the petitioner is residing. It is



relevant to reproduce paragraph nos. 9 to 13 of the counter affidavit filed on behalf of the Bihar State Housing Board:

“9. That the averment made in paragraph no. 5 is admitted and that E.W.S. House No. J-67 allotted by Bihar State Housing Board, Patna in favour of Rabiya Khatoon vide letter no. - 628 dated 22.06.1993.

10. That the averment made in paragraph no. 6 is true and that was earnest money.

11. That with regard to statement made in paragraph no. 7 of the writ application is partly correct and it is submitted that a Hire Purchase Agreement made between the petitioner mother Rabiya Khatoon and Bihar State Housing Board. The price of the house J-67 is determined Rs. 42,946/- on 30.06.1993 and that was tentative on that date. The premium will start from 1st day of September 2001 in 180 month on monthly equated instalment of Rs. 523/- only to be paid within prescribed month. It is further submitted that a rebate shall be allowed if the payment is made by the 7th of that month on which the instalment is due and the equated monthly instalments after allowing the rebate in such a case shall be Rs. 474/- only per month.

It is pertinent to mention here that in clause 4(a) of the agreement it is clearly stipulated that the total disposal price of the house is according to the present estimate and hence tentative. Increase in the cost of development or due to increase in cost of land acquisition or due to any decision/award of court of law of legislation or due to final valuation, due to increase in cost calculation or otherwise as per decision of the Board shall be payable by the settlee either in instalments thereof or in lump sum within the



period decided by the Board. The Settle shall under no circumstances be entitled to demand any accounts relating to the disposal price/cost or to question or dispute it as this shall be fixed by the Board in its sole discretion and the disposal price of house of land so fixed shall be binding on the settlee.

12. That the averment made in paragraph 8 is true and matter of record.

13. That the averment made in paragraph 9 is true. Possession of House no. J-67 at Damodarpur, Muzaffarpur handed over to petitioner's mother Rabia Khatoon (allottee) on 12.10.2001 where presently petitioner residing."

6. The record reveals that specific statement has been made in paragraph no. 32 that entire amount of Rs. 1,62,890/- along with earnest money was already deposited by the petitioner's mother namely, Late Rabia Khatoon (allottee) and in this regard annexure-5 series to annexure-24 series are appended to the writ petition which are money receipts duly paid by the mother of the petitioner in account of Bihar State Housing Board both in cash as well as bank *chalan*.

7. Prior to the present writ petition the Bihar State Housing Board has also not disputed the fact that the entire amount has not been paid rather from paragraph no. 13 of the counter affidavit it appears that after being satisfied, the Bihar State Housing Board had given the possession of the House No. J-67 at Damoderpur, Muzaffarpur to the petitioner.



8. Having heard the rival submissions of the parties, perused the pleadings made in the writ petition and documents appended there with it as well as the counter affidavit it appears that the Bihar State Housing Board in spite of the petitioner having made her several representation for transfer of her name being the sole heir and legal representative of Late Rabia Khatoon (allottee) along with all the requisites legal documents but till date the Bihar State Housing Board has not transferred (*Namantaran*) of her name in place of Late Rabia Khatoon, who is her mother. The petitioner has made out a case in her favour and at the same time has been able to ventilate the manner in which the authorities of the Bihar State Housing Board are playing in a tactical manner to defeat the right of the petitioner. The same is deprecated by this Court and holds the Managing Director, Bihar State Housing Board to shape up his office.

9. The Managing Director, Bihar State Housing Board is directed to look into the matter relating to the petitioner and must not delay in any manner on account of any proposed project which has not been yet approved by the Committee of the Bihar State Housing Board.

10. The writ petition is allowed. The grievance of the petitioner must be redressed within a period of three weeks from



the date of communication of this order. In case, the Managing Director, Bihar State Housing Board finds certain technical discrepancy, the same should be informed to the petitioner so that she may act upon and satisfy the Managing Director but in any case, the claim of the petitioner should not be defeated for any technical reasons.

11. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

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