

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.852 of 2023

In

Civil Writ Jurisdiction Case No.6404 of 2023

=====

Satyendra Narayan Singh, Son of Late Devnandan Singh, Resident of LIG.
13/460, Hanuman Nagar, Kankarbagh, Patna.

... .. Appellant/s

Versus

1. The State of Bihar through its Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Secretary Bihar State Housing Board, Patna.
3. The Managing Director Bihar State Housing Board, Patna.
4. The Executive Engineer Bihar State Housing Board, Patna.
5. The District Magistrate, Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr.Atul Kumar Mehta, Advocate Ms. Sushmita Singh, Advocate
For the Respondent/s	:	Mr.Pawan Kumar, Advocate Ms. Pratibha, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-07-2023

The writ petitioner, appellant herein, is aggrieved with the order passed by the learned Single Judge rejecting the claim of the appellant on two counts. The appellant filed the writ petition with two reliefs. One for restraining the respondent Board from implementing the order of the competent authority dated 05.04.2023 in Eviction Case No. 07 of 2022, which would result in demolition of an unauthorized construction over the



apartment allotted to one person who had conveyed it to the appellant herein. The appellant also prayed for another relief that there were many illegal occupants who have occupied the Lower Income Group Flats situated at Hanuman Nagar, Patna and sought for eviction of those illegal occupants before the demolition of an unauthorized construction made by the appellant itself is demolished.

The learned Single Judge held that there is no reason to allow the second prayer, especially since the Standing Counsel for the Board apprised the Court that the Board is aware of the illegal occupants and that efforts are being taken to evict them which also has to be done in accordance with law. In so far as the appellant is concerned, an Eviction Case was filed in which he participated and later an order was passed on 05.04.2023. Later to the order, after ten days, on 15.04.2023, a notice was issued directing the demolition of the premises within thirty days. The appellant also has filed an appeal, the date of which, however, is not disclosed in the writ petition. The learned Single Judge found that when an appeal is filed, as provided under Section 60 of the Bihar State Housing Board Act, 1982, the appellant could seek for interim relief of stay of the demolition order. It is not clear as to whether the appellant has



filed an application for stay in the above case. In any event, the appellant had a time of thirty days to file the appeal and also to move the application for stay and due to the existence of such appellate remedy, it is not for this Court to exercise the jurisdiction under Article 226 of the Constitution of India.

We are convinced that there is no cause for invocation of Article 226 of the Constitution of India and the learned Single Judge has rightly refused to exercise discretion in the matter where there is an alternate efficacious remedy, which it is not clear whether has been availed of in the manner in which it should have been availed of.

Given the circumstances of the case, we find no reason to interfere with the impugned order. The Letters Patent Appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./Aditya

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	10.07.2023.
Transmission Date	N.A.

