

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.844 of 2023**

**In**  
**Civil Writ Jurisdiction Case No.18772 of 2021**

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Lakshya Seva Sangh (LSS) through their President B.K Bidyarthi, S/o Late Dinesh Chandra, Aged about-76, Gender-Male, Official Address- LIGH-8/257, Hanuman Nagat, Kankarbagh, P.O.- Lohiya Nagar, P.S.- Patrakar Nagar. Regd. Housing Society Represented through its President BK Vidyarthi S/o- Dinesh Chandra.

... .. Appellant

Versus

1. The State of Bihar through its Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Bihar State Housing Board through its Secretary.
3. The Managing Director cum Chairman Bihar State Housing Board, Patna.
4. The Executive Engineer, Bihar State Housing Board, Division-1 Patna.
5. The District Magistrate, Patna.
6. Satyendra Narayan Singh, S/o Late Devnandan Singh, Resident of LIG13/460, Hanuman Nagar, Kankarbagh, P.S. Patrakaarnagar, P.O. Lohiya Nagar, District Patna.

... .. Respondents

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**Appearance :**

|                     |   |                                                                                        |
|---------------------|---|----------------------------------------------------------------------------------------|
| For the Appellant/s | : | Mr. J.S. Arora, Sr. Adv.<br>Mr. Digvijay Narayan Singh, Adv.<br>Mr. Mayank Singh, Adv. |
| For the State       | : | Mr. Yogendra Pd. Sinha, AAG-7                                                          |
| For the BSHB        | : | Mr. Pawan Kumar, Adv.<br>Ms. Pratibha, Adv.                                            |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 09-04-2024**

The appellant is aggrieved with the impugned order dated 12.04.2023, which directed the Housing Board to take action against the encroachers in accordance with law.

2. The 6<sup>th</sup> respondent was the writ-petitioner therein and the appellant has filed this appeal with leave.



3. The appellant, a society of which the members are occupants of the buildings constructed by the Housing Board.

4. Though, notice was issued to the 6<sup>th</sup> respondent, none appeared.

5. The 6<sup>th</sup> respondent, who is the writ-petitioner filed the writ petition, seeking a mandamus to the respondents to take immediate action against the encroachers/grabbers of L.I.G. Flats bearing no. L.I.G-13/451, L.I.G-13/457 and L.I.G-13/458. None of the occupants of the said flats were impleaded as party-respondents in the writ petition.

6. The learned Single Judge relied on a judgment passed in another case, where the occupant of the apartment was also a party i.e. in **C.W.J.C. No. 2820 of 2016 (Maheshwar Narain Sinha v. The State of Bihar and others.)** dated 24.01.2023. Therein the learned Single Judge had directed the Managing Director of the Board to conduct physical inspection of the flat in question, personally and ensure that no inconvenience is caused to the other inhabitants.

7. The Housing Board submitted before Court that appropriate action shall be taken in accordance with law, against the occupant of L.I.G. Flat no. 13/451. The learned Single Judge directed that every encroachment in the various L.I.G. Flats situated at Hanuman Nagar Housing Colony, Patna shall be removed/cleared by taking recourse to due process of law.



8. The appellant is aggrieved with such directions issued.

9. We have to notice that the Board is a statutory body, which has also allotted premises in the L.I.G. Buildings on specific terms and conditions. If there is violation of any such terms and conditions and any encroachment is occasioned, it is incumbent upon the statutory authority to proceed against such encroachment. But, it has to be observed that the same can be only in accordance with law.

10. Learned Senior Counsel appearing for the appellant, points out Section 59 of the Bihar State Housing Board, Act, for the purposes of proceeding against the encroachers and Section 60 thereof also provides for an appeal.

11. We are sure that the statutory body will act only in accordance with law and the provisions of the statute, which created the Board itself.

12. With the above observation, the appeal stands closed.

**(K. Vinod Chandran, CJ)**

rohit/-

**( Harish Kumar, J)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
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