

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1047 of 2018**

**In**

**Civil Writ Jurisdiction Case No.2312 of 2003**

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Chandan Kumar Jaiswal, S/o Sri Narsingh Prasad Jaiswal, resident of Village-  
Jaitipur, P.O.+P.S. Rampur, District- Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. The Registrar, Co-operative Societies, Bihar, Patna
3. The Additional Registrar, Co-operative Societies, Patna Division, Patna
4. The Joint Registrar, Co-operative Societies, Patna Division, Patna
5. The District Co-operative Officer, Patna
6. The Assistant Registrar, Co-operative Societies, Patna Circle, Patna
7. The Nand Sahkari Grih Nirman Samiti through its Secretary having its  
office at Krishna Bhawan, Post Office Road, Punaichak, Patna- 23
9. Smt. Lakshmi Singh, W/o- Chandrama Singh, residing at Krishna  
Bhawan, Post Office Road Punaichak Patna-23

... .. Respondent/s

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with

**Letters Patent Appeal No. 991 of 2018**

**In**

**Civil Writ Jurisdiction Case No. 3079 of 2023**

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1. Arbind Kumar, S/o- late Rameshwar Prasad Jaiswal, resident of D-10/15  
Dilsad Colony, Delhi-95
2. Nirmal Kumar, S/o- late Rameshwar Prasad Jaiswal, resident of B-607,  
Nestle-2 P.V. Marg, Lower Patel, Mumbai- 13



3. Ragini Jaiswal, D/o- late Rameshwar Prasad Jaiswal, resident of C-404, Prashray Apartment, Ara Garden, Jagdeo Path, Bailey Road, Patna-14
4. Ponam Jaiswal, D/o late Rameshwar Prasad Jaiswal, resident of C-404, Prashray Apartment, Ara Garden, Jagdeo Path, Bailey Road, Patna-14
5. Nutan Jaiswal, D/o late Rameshwar Prasad Jaiswal, resident of Ganesh Plaza-2, Wing- 402, Khanda Colony, New Pamvet (West), New Mumbai

... .. Appellant/s

Versus

1. The State of Bihar
2. The Registrar, Co-operative Societies, Bihar, Patna
3. The Additional Registrar, Co-operative Societies, Patna Division, Patna
4. The Joint Registrar, Co-operative Societies, Patna Division, Patna
5. The District Co-operative Officer, Patna
6. The Assistant Registrar, Co-operative Societies, Patna Circle, Patna
7. The Nand Sahkari Grih Nirman Samiti through its Secretary having its office in the house of Chandrama Singh, present address- Leela Sadan, North of R.D. Tower, New Punaichak, Patna-23
9. Smt. Lakshmi Singh, W/o- Chandrama Singh, resident of Leela Sadan, North of R.D. Tower, New Punaichak, Patna-23
10. Jamuna Prasad Yadav S/o Late Ram Narayan Roy, resident of Quarter No. C/2, Electricity Board Colony, Patna

... .. Respondent/s

**Appearance :**

(In Letters Patent Appeal No. 1047 of 2018)

For the Appellant/s : Mr. Ganpati Trivedi, Sr. Advocate  
Mr. Rakesh Narayan Singh, Advocate  
Mr. Ritik Shah, Advocate  
Mr. Madan Mohan, Advocate  
Ms. Pallavi Pandey, Advocate  
Mr. Rahul Raj, Advocate  
Mr. Shashi Shekhar Tiwary, Advocate  
Mr. Kanhaiya Pandey, Advocate



For the Respondent/s : Mr. Jitendra Kumar, AC to Ex. AAG-11  
Mr. Syed Firoz Raza, Advocate  
Mr. Azhar Hussain, Advocate

(In Letters Patent Appeal No. 991 of 2018)

For the Appellant/s : Mr. Ganpati Trivedi, Sr. Advocate  
Mr. Rakesh Narayan Singh, Advocate  
Mr. Ritik Shah, Advocate  
Mr. Madan Mohan, Advocate  
Ms. Pallavi Pandey, Advocate  
Mr. Rahul Raj, Advocate  
Mr. Prabhat Ranjan Singh, Advocate  
For the Respondent/s : Mr. Jitendra Kumar, AC to Ex. AAG-11  
Mr. Syed Firoz Raza, Advocate  
Mr. Azhar Hussain, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**CAV JUDGMENT**

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

**Date : 26-09-2024**

The issue agitated in the above two appeals is as to whether, the predecessor-in-interest of the appellants in LPA No. 991 of 2018 and the appellant in LPA No. 1047 of 2018, were entitled to allotment of two separate plots, by the respondent Society; Nand Sahkari Grih Nirman Samiti, at Mauza Dhanaut, Rupaspur. The predecessor-in-interest of the appellants in the first case and the appellant in the other case were father-in-law and son-in-law; who are referred to by their respective names in this judgment being R.P.Jaiswal and Chandan Kumar Jaiswal.

2. Their claim for allotment of land was allowed by the Additional Registrar, Co-operative Societies, Patna Division,



Patna. The Society challenged the same before the Registrar, Co-operative Societies, Bihar, Patna who reversed the order of the Additional Registrar. Chandan Kumar Jaiswal was found to be not entitled to the allotment of the plot claimed and he was also said to have relinquished/abandoned his membership in the Society for reason of he having been a member of another Housing Society; namely Ambarpuri Sahkari Grih Nirman Samiti. R.P. Jaiswal was found to be not entitled to the plot of land in Mauza Dhanaut, but was found entitled to the plot he was allotted in another locality; namely Sandalpur and he was left liberty to exercise his option regarding acquisition of that land allotted to him within a reasonable period of time.

3. The legal heirs of one of the claimants and the other claimant filed the writ petitions, which were dismissed by a common order. The learned Single Judge elaborately noticed the facts, the respective contentions and found that the reliance of the petitioners was on two documents; one of which was the notice issued by the Society informing the members that the Society is acquiring land at Mauza Dhanaut, which is intended to be allotted to the members after demarcating six plots out of the total land purchased. The further document relied on was the No Objection Certificate granted by the Deputy Collector under



the Urban Land (Ceiling and Regulation) Act, 1976. The document so relied on were found to be insufficient to find an allotment of land; which had to be by the Managing Committee.

4. The learned Registrar allowed the appeals filed by the Society on multiple grounds. That, the allotment of land has to be made by the Managing Committee, which has not been made in the name of either of the allottees. That, the notice relied on by the claimants has no relevance since only an allotment can create a right to claim the land. That, the No Objection obtained under the Land Ceiling Act is of no relevance since there is nothing to show that the Society took part in the proceedings. That, R.P. Jaiswal was also allotted a land in a different location.

5. The learned Single Judge agreed with the Registrar and also held that Chandan Kumar Jaiswal failed to establish that he had a right to continue in the membership, since he was admittedly a member of another Housing Society; which also disentitled him from claiming the allotment made of a property purchased by the Society. The appellants before us specifically urged that the documents produced by them would establish their claim and the claimants had also remitted the amounts as demanded by the Society.



6. Shri Ganpati Trivedi, learned Senior Counsel appearing for Chandan Kumar Jaiswal took us to Rule 7 of the Co-operative Society's Bye-laws and argued that only a subsequent membership can stand cancelled as per the said provision. It is pointed out from Annexure-A in the writ petition that Chandan Kumar Jaiswal had obtained membership in the respondent-Society on 01.07.1983 whereas his membership in the other Society was on 01.09.1983, as is evident from Annexure-13. On knowing of the disqualification, the petitioner had also resigned from the subsequent membership in the other society on 09.02.1985. In the above circumstances, there can be no disqualification suffered by Chandan Kumar Jaiswal. Annexure-13 was specifically pointed out to prove the resignation of Chandan Kumar Jaiswal from the other Society.

7. Shri Rakesh Narayan Singh, learned Counsel who appeared for the legal heirs of R.P. Jaiswal; the appellants in the other appeal, also adopted the arguments of the learned Senior Counsel.

8. Shri Jitendra Kumar, learned Counsel appearing for the Society vigorously contested the claims of the appellants and sought for upholding the judgment of the learned Single Judge which affirmed the order of the Registrar, Co-operative



Societies. The jurisdiction under Article 226; of a judicial review of the orders of the lower authorities, who are invested with *quasi judicial* powers, do not permit this Court to consider the issue, as in an appeal. The factual aspects have been elaborately considered by the Registrar and there is no reason to interfere with the same. The reversal of the Additional Registrar's order was on the ground that the Additional Registrar failed to consider the matter in the proper perspective on the basis of the records that were available before him.

9. We have gone through both the orders of the lower authorities; the Additional Registrar and the Registrar. The order of the Additional Registrar is at Annexure-17 in CWJC No. 2312 of 2003, a translated copy of which has been perused by us. As far as the membership in two Societies, the Additional Registrar found that there was an application for resignation from the membership submitted on 09.02.1985 which confirms that the petitioner had resigned from the membership of the other Society. It was found, relying on Rule 10 read with Rule 76 of the Bihar Co-operative Societies Rules, 1959 that the respondent Society is granted condonation for, acceptance of the membership, without obtaining prior permission of the Registrar and after obtaining the permission, the legal irregularity is



eliminated with retrospective effect from 01.07.1983. It was asserted that going by the resignation letter, it is clear that the claimant did not have any intention to obtain plots from two government institutions by committing a fraud. The notice dated 05.09.1984 signed by the Secretary and the Chairman, was found to have made a demand for advance amounts from the claimant, for purchase of land at Mauza Dhanaut. The cash receipts were also on record, in which circumstance, it was found that Chandan Kumar Jaiswal is entitled to allotment of plot at Mauza Dhanaut.

10. Similarly in CWJC No. 3079 of 2003 Annexure-12 is the order of the Additional Registrar. The Additional Registrar looked at the photo copy of the proceedings of the meeting of the Executive Committee of the respondent Society dated 26.05.1991 which indicates acceptance of money from Rameshwar Prasad Jaiswal. Despite clearly noticing that the plot allotted to Shri Jaiswal is situated in Mauza Sandalpur, merely on the applicant's request it was found that the money was deposited for allotment/purchase of land situated in Mauza-Dhanaut; which led to the order directing sale of Plot No. 6, situated at Mauza- Dhanaut to Shri Rameshwar Prasad Jaiswal. The said order has been overturned by the Registrar clearly



finding the allotment to be of a plot at Mauza- Sandalpur.

11. We will first consider the issue with respect to the allegation against Chandan Kumar Jaiswal of having taken membership in two Societies. Rule 10 of the Bihar Co-operative Societies Rules, 1959 restricts a member of a registered Society to be admitted as a member of another registered Society of a similar type unless and until the sanction of the Registrar is obtained. If such a membership is obtained without sanction, the rules also provide that the Registrar may direct either of the Societies to remove such a person from its membership. Rule 76 is the Registrar's power of condonation, on failure of any registered Society to comply with any rule which requires his previous sanction. There is nothing on record to indicate that the sanction of the Registrar was obtained under Rule 10 before the second membership was taken. It is not clear even now, as to which Society Chandan Kumar Jaiswal had first taken the membership, which we will deal with, on facts, a bit later. There is also no order in which condonation was granted by the Registrar under Rule 76. There is not even an averment with respect to a sanction or a condonation having been granted by the Registrar; in which circumstance we can only find the Additional Registrar's order to be perverse.



12. The Registrar in Annexure-18 order, which is a common order with respect to the appeals filed by the Society, with respect to both the claimants, has specifically noticed that the material available on record has not been perused by the Additional Registrar. In so far as the membership taken in the Ambarpuri Co-operative Housing Construction Society Limited by Chandan Kumar Jaiswal, it is found that Rule 7 is a clear violation of the Bye-laws of the respondent Society; Nand Sahkari Grih Nirman Samiti.

13. In this context, Rule 7 of Bye-laws of Co-operative Housing Construction Society Limited have to be noticed which speaks of no person who is a member of another Co-operative Housing Society, within the area of operation of a Society being admitted.

14. The learned Senior Counsel specifically relied on Annexure-1 and 13 to contend that Chandan Kumar Jaiswal was admitted to the respondent Society on 01.07.1983 and the other Society on 01.09.1983; from which other Society he resigned on 09.02.1985.

15. We have perused Annexure-1 which shows that the petitioner was admitted to the respondent Society on 01.07.1983. In fact Annexure-13 indicates that the Chairman of



the Society, is Chandan Kumar Jaiswal and it is the minutes of a General Body Meeting. However, Annexure-13 does not disclose any date and it also does not indicate an admittance to the membership of that Society on the date of the General Body Meeting.

16. We also notice from the records that Chandan Kumar Jaiswal had a contention that Annexure-24 indicates his membership in the other Society. Annexure-24 is a receipt which indicates Rs 200/- having been paid along with the membership entry fee of Rs. 25/-. Annexure-24 is dated 01.09.1983. It is pertinent that Annexure-13 indicates the general meeting of the other Society, by Paragraph 9, having taken a decision that every member should pay Rs. 200/- price equivalent to two shares in addition to Rs. 25/- as Entry Fee which will be the first instalment on the application of shares. Hence, the amounts paid as per the decision on 01.09.1983 is not the initial membership of the Society since Annexure-13 obviously would be a general meeting convened prior to Annexure-24 receipt of 01.09.1983. There is nothing on record to show that Chandan Kumar Jaiswal had taken the membership in the other Society after he was admitted to the membership of the respondent-Society. Rule 7 has also to be interpreted in a



manner which would disentitle a person from being member of different Housing Societies so as to enable allotment of housing plots from both the Societies. We find absolutely no reason to interfere with the order of the Registrar with respect to the cancellation of membership of Chandan Kumar Jaiswal.

17. In so far as the further contention regarding allotment, both the Registrar of the Co-operative Societies and the learned Single Judge has found that the reliance is only on a notice issued and a No Objection obtained, under the Land Ceiling Act; in the case of both the petitioners. It has also to be emphasized that there is no allotment made by the Managing Committee, as is revealed from the records, nor is such an allotment produced by either of the claimants. As far as the notice is concerned, the Society had a contention that both the claimants had somehow managed to obtain blank signed copies of the notice, kept in the office of the Society. In any event, the notice only indicates that the Society intends to purchase a land in Mauza Dhanaut and advance amounts are invited from the members of the Society. This does not mean that everybody who deposits the advance amount would get the plot allotted.

18. In the case of Rameshwar Prasad Jaiswal, the Additional Registrar found that the proposal of the Executive



Committee was for allotment of land at Mauza- Sandalpur; but still accepted the claim raised for the land at Mauza- Dhanaut. As has been held by the learned Single Judge, unless there is a specific allotment by the Society, there cannot be a right on the claimant to seek for conveyance of the land in the name of the claimant.

19. The No Objection obtained by the petitioners under the Land Ceiling Act though would entitle allotment of a land; if the Society carries out such allotment, it does not create a right to claim the allotment.

20. We find absolutely no reason to carry out a judicial review of the order of the Registrar of Co-operative Societies; the appellants having not substantiated their claims on the basis of a specific allotment made by the Managing Committee of the Society. Mere issuance of notice and No Objection; having been obtained under the Land Ceiling Act, would not crystallize into a right for allotment of a plot of land, by the Housing Society. We also notice that in so far as R.P. Jaiswal is concerned, he was allotted a land in Sandalpur, which is a clear indication that he was not allotted any land in Mauza Dhanaut, since there can be no two allotments made to an individual by a Housing Society.



21. We find absolutely no reason to interfere with the common order passed by the Registrar, as affirmed by the learned Single Judge and reject the appeals.

22. Interlocutory Application(s), if any, shall stand closed.

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

**Partha Sarthy, J:** I agree.

**(Partha Sarthy, J)**

P.K.P./-

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