

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL REVIEW No.33 of 2020**

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Brajesh Dhari Sharma, Son of Late Girish Dhari Prasad Sharma, resident of  
Village- Samaya Garh, P.S.- Mokameh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Patna.
3. The Sub-Divisional Magistrate, Patna Sadar, Patna.
4. The Officer-in-Charge, Patrakar Nagar Police Station, Kankarbagh, Patna.
5. Peoples Co-operative House Construction Society Ltd., Kankarbagh, Patna-800020, through its Honorary Secretary.
6. Kiran Sinha, Wife of Shri Arun Kumar, resident of Village- Korawan, P.S. Hilsa, District- Nalanda, at present residing in the House of Shri Mritunjay Singh, New Area, Chitragupta Nagar, Kankarbagh, Patna.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Uma Kant Tiwary, Advocate  
For the State : Mr. Yogendra Prasad Sinha, AAG-7

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**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

3      31-07-2025                      Heard Mr. Uma Kant Tiwary, learned counsel for the  
  
petitioner duly assisted by Ms. Swati Mishra, Mr. Sudhir Kumar  
for the respondent no.6 and Mr. Mukesh Kumar for the  
respondent no.5, the Cooperative House Construction Society  
Limited.

2. The present petition has been preferred for the  
grant of following relief(s):

*“for the review of order dated*

*25.09.2018 passed by the Hon’ble Mr. Justice*



*Ashwani Kumar Singh (as his lordship then was)*

*in CWJC No. 3493 of 2007.”*

3. The petitioner owns a plot no. K1-87 allotted by the Peoples Cooperative House Construction Society Limited, Kankarbagh, Patna (henceforth for short ‘the Society’) (respondent no.5) whereas plot no. K1-86 was allotted to Mrs. Nandini Roy, both measuring 35 x 80 Square Feet.

4. Later, the original allottee Mrs. Nandini Roy transferred the land in favour of her nephew, Alok Shekhar who having come to know about the fact that the plot has been reduced due to construction of road, sewerage and HT electric line by ‘the Society’, approached the Registrar, Cooperative Societies, Bihar, Patna for a direction to get his land excluded. It was disposed of on 07.04.2003 allowing Alok Shekhar to approach the Arbitrator.

5. Thereafter, he preferred petition before the Secretary, Housing Department, Bihar, Patna for arbitration but the same was not decided. Contention is that it was heard by the Secretary of the said Housing Board and an order was passed in favour of Alok Shekhar.

6. Petitioner moved before the Hon’ble Court in CWJC No. 7132 of 2004 challenging the order while allegation



is that Alok Shekhar resorted to approach the Sub-Divisional Magistrate, Patna which led to proceeding under section 144 of the Cr.P.C. It came to be disposed of on 01.02.2005 but was communicated on 24.03.2005.

7. CWJC No. 7132 of 2004 came to be disposed of on 27.04.2005 allowing the parties to appear before the Secretary, Housing Board, Bihar Patna who shall be passing an order in accordance with law (Annexure-2 to the writ petition).

8. Then came the order passed by the Secretary, Housing Board, Bihar, Patna in Arbitration Case No. 192 of 2005 (Alok Shekhar vs. Brajesh Dhari Sharma) on 13.03.2006 (Annexure-3 to the writ petition) and the relevant paragraph read as follows:

### **FINDINGS**

*1. In the facts and circumstances mentioned above in view of Revised Part Layout Plan No. 70 of 1970 of Sector "K" Lohianagar (Kankarbagh) and communicated the same vide letter no. 286 dated 25.01.1971 to the Peoples Cooperative House Construction Society Ltd., and as per Revised Part Lay Out Plan No. 70 of 1970, the are of Plot No. K1-86, K1-87 and its counter part K1-100 and K1-101 was increased*



*and were categorized as C-Type Plots, having dimension of 80'x50'(4000 sq. ft.) and is still stands as 80'x50'(4000 sq. ft.) being the C-type Plots as per Revised Part Lay Out Plan No. 70 of 1970.*

*2. The case of the Present Applicant as well as Intervener for arbitration is against the common perception because he claims for the lesser area than what the Plot No. K1-86 allotted in the year 1982 and the same has been transferred through registered lease deed and he started litigation before Cooperative Court as well as filed the instant Arbitration Case without showing sufficient cause for delay in filing the Arbitration Case which is hopelessly barred by the Law of Limitation as per the judgments reported in 1999 (8) SCC 122, 2002 Arb. W.L.J. 91 (G.C. Dey Versus State of Bihar) and AIR 1999 Delhi 65 (Rajbir Singh Versus Union of India), as well as the Opposite Party above named in not party to the arbitration agreement of the lease deed of Plot No. K1-86 executed in*



*favour of Present Applicant, therefore Arbitration Case No. 1 & 2 of 2005 is held barred by the Law of Limitation.*

***3. As admitted by the Peoples Cooperative House Construction Society Ltd. There has been road, sewerage, H.T. Line over Plot No. K1-86 and its counter part Plot No. K1-100, the Applicant/Intervener should approach the said Peoples Cooperative House Construction Society Ltd. either to refund the excess amount or to allot Land at another Place and the said 'Society' will be obliged to either refund the excess amount or for the loss sustained by the Applicant/Intervener.***

*With the aforesaid findings the arbitration proceedings are disposed of.*

*(emphasis added)*

9. Still aggrieved, the present petition.

10. Learned counsel for the petitioner submits that the respondent no.6 is resorting to civil/criminal action and have encroached the land allotted to him (K1-87) of 'the said society' and the Sub-Divisional Magistrate, Patna erroneously passed an



order under section 144 of the Cr.P.C.

11. The respondent no.6 is Kiran Sinha, the new purchaser from Alok Shekhar and owner of the K1-86 of the said society. According to learned counsel, the lady is contended with the order of the Arbitrator inasmuch as the area that has been taken for the construction of sewerage, road, electricity line and she shall be happy with 2800 Square Feet.

12. Respondent no.5, 'the Society' is also represented through the learned counsel and in the opinion of the Court, it is 'the Society' which is the main culprit. It allots the land on paper without making proper plotting and/or ensuring the parties to come into peaceful physical possession. Worse, after allowing K1-86 to the owners, without acquiring/ granting compensation/taking consent, it chose to bulldoze over the land by constructing the road/sewerage/electricity line. It is only due to the deliberate action of 'the Society' that the people who got the land in it are still aggrieved after the passage of four decades.

13. At one point, this Court wanted to impose cost upon 'the Society' but refrains from doing so but cautions it to mend ways and ensure that the allottees do not have any problem due to inaction/deliberate action on its part.



14. So far as the petitioner is concerned, he has been allotted K1-87 four decades ago and according to him, he is in peaceful physical possession. The respondent no.6 is contended with the land/area allotted, if any civil/criminal dispute arises now, the party aggrieved has to take recourse to competent authority/court for the redressal of the grievance.

15. The review petition cannot be stretched too far to adjudicate the matter which is in the domain of civil court.

16. The review petition stands disposed of with the aforesaid observation.

**(Rajiv Roy, J)**

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