
(2020) 01 JH CK 0003

In the Jharkhand High Court

Case No : Writ Petition (c) No. 3970 Of 2014

Deepnarayan Pandey And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 07-01-2020

Acts Referred:

Bihar (now Jharkhand) State Housing Board Act, 2000 — Section 59

Citation : (2020) 01 JH CK 0003

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Ashok Kumar Yadav, Dr. Ashok Kumar Singh

Final Decision : Disposed Of

Judgement

Heard Mr. Ashok Kumar Yadav, learned counsel appearing for the petitioners and Dr. Ashok Kumar Singh, learned counsel appearing for the respondent-Jharkhand State Housing Board.

The petitioners have preferred this writ petition for direction to the respondent-authority to give possession to the petitioners over the land situated at Adityapur, under District- Saraikella-Kharsawan, allotted through lottery held on 16.09.2011.

Mr. Ashok Kumar Yadav, learned counsel appearing for the petitioners submits that in the month of July 2011, the respondent-Jharkhand State Housing Board published an advertisement in local newspaper inviting applications for allotment of plots (M.I.G., L.I.G., L.B. etc.) at Adityapur under District- Saraikella-Kharsawan. He further submits that in pursuant to the above advertisement, the petitioners submitted their applications with requisite initial money, deposited by the petitioners in favour of the respondents and thereafter the respondents held a lottery in the month of September 2011 and all these petitioners were allotted different pieces of land having an area of 1837.5 Sq. Ft. each at a cost of Rs.11,52,956/-. The allotment orders are annexed at Annexure-1 series to this

writ petition. He further submits that the petitioners and respondents thereafter executed a higher purchase agreement for plot in presence of witnesses and as per the terms and conditions of the agreement, the allottee after getting possession over the land shall start their construction within two years and fully complete it within next three years. The said agreement is annexed at Annexure-2 series to this writ petition. He further submits that in compliance of the terms of allotment, the petitioners started payments of their monthly installment to the respondents since the year 2011 as fixed by the respondent-Jharkhand State Housing Board. He further submits that many of the petitioners have already paid the entire amount to the respondent-Jharkhand State Housing Board for the allotted land, but still the Board has not given physical possession over the land allotted to them. He also submits that the petitioners are senior citizen and they have paid the installments, out of their hard earned money and in spite of the payment, the fruit of the agreement has not been received by the petitioners.

Dr. Ashok Kumar Singh, learned counsel appearing for the respondent-Jharkhand State Housing Board fairly submits that there is already an agreement and the respondent-Housing Board is duty bound to provide the fruit of that agreement to the petitioners as they have already paid the installments for the allotted land in question.

In view of the above facts, circumstances and considering the admitted position that the petitioners are senior citizen and they have paid the amount from their hard earned money and still they have not been given possession of the allotted plots, this Court directs the respondent-Jharkhand State Housing Board to hand over the physical possession of the allotted plots in question to the petitioners within a period of eight weeks from the date of receipt/production of a copy of this order.

At this stage, Dr. Ashok Kumar Singh, learned counsel appearing for the respondent-Jharkhand State Housing Board submits that it has been stated in paragraph 28 of the counter affidavit that for removing the hindrance, the help of district administration is needed.

It is made clear that if there is any hindrance on behalf of any party, the respondent-Jharkhand State Housing Board will not hesitate to take action under Section 59 of the Bihar (now Jharkhand) State Housing Board Act, 2000 and the district administration will provide all co-operation to the Jharkhand State Housing Board so that fruit of the agreement may come in favour of the petitioners.

Dr. Ashok Kumar Singh, learned counsel appearing for the respondent-Jharkhand State Housing Board by way of referring paragraph 10 of the counter affidavit submits that petitioner no.1 namely Deepnarayan Pandey has been allotted plot No. M/8 at Adityapur and petitioner no.5, namely, Smt. Pushpa Devi is the wife of Deepnarayan Pandey (petitioner no.1) and both husband and wife are not

entitled for allotment of flat/house/plot from the Housing Board in view of clear provision made in this regard to the effect that if any of the spouse is having any allotment within 5 Km. of that area, they are not entitled for allotment of plot. He further submits that the allotment of one of the two petitioners is liable to be cancelled for which necessary action is being taken by the State Housing Board.

In view of this submission, the aforesaid direction will not apply in the case of petitioner no.1. It is made clear that if there is other remedy available with petitioner no.1, he may avail the same.

With the aforesaid observations and directions, this writ petition stands disposed of.