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(2020) 01 PAT CK 0130

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 17343 Of 2017

Dr. Nawal Kishore Sharma — APPELLANT

Vs

Bihar State Housing Board Patna And Ors — RESPONDENT

Date of Decision : 07-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0130

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Shailesh Kumar, Rabindra Kr. Priyadarshi

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.

2. The petitioner claims that he is the husband of late Malti Devi, who had applied for a residential plot at Mohalla Katari, Gaya through application

No. 179486 dated 29.12.1981. His wife had submitted relevant documents and affidavits as required for allotment. She died on 08.10.1987.

3. It is the petitionerâ??s case that he inherited the entire assets, which were existing in the name of his wife Malti Devi. He was waiting for any

notice/ information from Bihar State Housing Board (hereinafter referred to as â??the Boardâ??) for allotment of residential plot pursuant to

application made by his wife. In 2012, he learnt about allotment of certain plots to other persons whereafter he submitted an application on 24.01.2012

seeking information regarding status of allotment of residential plot in the name of his wife. Nearly five years thereafter, on 03.12.2016, he again

submitted a representation to the Board stating therein that his wife had submitted application for allotment of residential plot under prescribed form,

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who had died. It is his further case that when he approached the office of the Board on 12.06.2017 personally, he was shown a letter dated

29.04.2006 through which a plot was allotted in favour of the petitionerâ??s deceased wife, through a lottery held in the head office of the Board on

29.04.2006. The allottee was required to deposit a sum of Rs. 82,378=00 against estimated cost of Rs. 2,74,593=00 of the plot and other relevant

documents in the office of the Board at Gaya. It is the petitionerâ??s grievance that the said letter dated 29.04.2006 was communicated to a wrong

address and, therefore, the requirement of depositing the amount of Rs. 82,378=00 was not complied with. The petitioner is said to have approached

the Board by making an application on 08.08.2017.

4. It is, thus, an admitted case of the petitioner that he had knowledge about submission of application by his wife in 1975 and 1981 for allotment of a

residential plot at Mohalla Katari, Gaya. This is also an admitted fact that after his wife died on 08.10.1987, he did not inform the Board about her

death. The plot, which got allotted by the Board on the basis of a lottery held in favour of petitionerâ??s deceased wife, was evidently against a dead

person because the Board was ignorant of her death. The petitionerâ??s plea that he could not gather any information about allotment of plots in the

area for long six years, does not appear to be convincing.

5. In the aforesaid background, the petitioner is seeking a direction to the Board to hand over the possession of the plot bearing No. K/2/MP-1, which

was allotted in favour of the petitionerâ??s wife through lottery held on 29.04.2006.

6. If the petitionerâ??s own case is to be accepted, he learnt about allotment of certain plots in January, 2012 and, according to him, he approached

the Board in December, 2016, nearly four years thereafter. Unexplained delay and laches on the part of the petitioner in pursuing his matter is, thus,

writ large.

7. A counter affidavit has been filed on behalf of the Board from which it appears that there were two applications for allotment of residential plot

which were filed in the name of Malti Devi. It is the Boardâ??s specific case that the application number of the petitionerâ??s wife was 179486,

whereas application number of another Malti Devi was 196973. It is also the Boardâ??s case that plot No. K/2/MP-73 was allotted on the basis of

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lottery against application No. 179486 whereas plot No. K/2/MP-1 was allotted against application of Malti Devi being application No. 196973. As per

the allotment letter, an allottee was required to deposit the aforesaid sum of Rs. 82,378=00 and enter into an agreement by 07.08.2006. It was

indicated specifically in the allotment letter that in case the conditions of allotment were not complied with, the allotment would be deemed to be

cancelled and the deposited amount would be forfeited. A plea has also been taken in the counter affidavit that the petitionerâ??s wife Malti Devi

had, in fact submitted two applications, by giving different descriptions in her application, which she could not have done. For the purpose of

verification, the Court had directed the Board to produce the original records of the two applications No. 179486 and 196973. The original records

have been produced, which I have perused.

8. On perusal of the original records it cannot be definitely said that petitionerâ?? s wife Malti Devi had filed two separate applications, as the

husbandâ??s name of another Malti Devi, who had submitted her application with application No. 196973, is different and the address is also

different.

9. Be that as it may, according to the petitionerâ??s own case, the Board was not made known about the fact that his wife had died within a

reasonable period after her death. The lottery was held 19 years after her death. The petitioner, in my view, cannot take advantage of result of a

lottery held by the Board for allotment of plots, as technically there was no application pending before the Board for allotment of plot in favour of

petitionerâ??s wife, who was dead. The allotment itself was made by the Board in complete ignorance of the fact that the applicant had already died.

In my view, therefore, this is the frivolous writ application, which deserves to be dismissed and is accordingly dismissed.

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