
(2011) 02 PAT CK 0026
In the Patna High Court
Case No : CWJC No. 477 of 2006

Gulab Chand Dharewa

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 14-02-2011

Acts Referred:

Digha Acquired Land Settlement Act, 2010 — Section 1(2)

Citation : (2011) 59 BLJR 1874 : (2011) 2 PLJR 400

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Advocate : M.P. Gupta and Ashok Kumar, for the Appellant; Lalit Kishore, Rajiv Nayan Singh and Vinita Singh for Housing Board, for the Respondent

Judgement

V.N. Sinha, J.—Heard learned Counsel for the Petitioner in the three writ petitions as also Bihar State Housing Board (hereinafter referred to as the Board).

2. Petitioners are the allottee of plot in the Digha area of Patna town by the Board. Petitioner of C.W.J.C. No. 477 of 2006 was initially allotted Plot No. 10H-11 under allotment letter dated 4.9.1991, Annexure-1. In the light of the allotment made, Hire Purchase Agreement was executed by and between the Petitioner and the Board, which is dated 22.7.1998, Annexure-2. Later, there was dispute about the number of the plot allotted to the Petitioner and the allotment was changed under letter dated 11.9.2005, Annexure-8, where under Petitioner was allotted plot No. 10H-42. Petitioner of C.W.J.C. No. 1465 of 2006 was also allotted plot No. 5L7333 under allotment letter dated 30.9.1991, after such allotment Hire Purchase Agreement dated 26.12.1995 was executed by and between Petitioner of that writ case and the Board. Petitioner in C.W.J.C. No. 992 of 2006 is also an allottee of the plot under allotment letter dated 30.9.1991, Annexure-3, but till date no Hire Purchase Agreement has been signed by and between the Board and the Petitioner of the said case.

3. By filing these writ petitions, Petitioners have prayed for direction to the Board to handover possession of the plot allotted to the three Petitioners.

4. Counsel for the Board submitted that in due course of time, the lands acquired for raising the Housing Colony at Digha has since been encroached by the members of the public, who have occupied the acquired land as unauthorized occupants. The magnitude of the problem is so large that it is difficult for the State to remove the unauthorized occupants from the acquired land. The State Legislature having appreciated the magnitude of the problem, enacted Digha Acquired Land Settlement Act, 2010 (Bihar Act 14 of 2010) (hereafter referred to as the Act), which has been published in the Bihar Gazette (Extraordinary) No. 291 dated 26th April, 2010, in terms whereof, the allottees, who have not been allowed possession of the allotted land, are to be allowed refund of the amount deposited by the allottees with the Board with compound interest @ 8% per annum from the date of deposit until the date of refund. In terms of Sub-section (2) of Section 1 of the Act, the State Government has to notify the date in the official gazette from which the Act shall come into force. Even after enactment of the Act and publication of the same in the official gazette on 26 April, 2010, the date from which the Act shall come into force has not been notified in the official gazette.

5. It is submitted by the Counsel for the Board that as the appointed date from which the Act has to come into force, has not been notified by the State Government, refund of the deposited amount may be allowed to the Petitioners as per the provisions of the Bihar State Housing Board Act i.e. @ 5% per annum.

6. In rejoinder, Counsel for the Petitioners submitted that when the Legislature has provided for payment of interest at the higher rate i.e. compound interest @ 8% per annum, Petitioners are entitled for such higher rate of interest and this Court should direct the State Government to consider within a period of three months the date from which the Act is to be notified.

7. Having heard Counsel for the parties and having considered the fact that Petitioners were allotted plot in question as far back as in 1991 and in lieu of such allotment, they have also made deposit, it is appropriate that the State Government should consider within three months from the date of receipt/production of a copy of this order the date from which the Act shall come into force or to repeal the said Act so that Petitioners may be allowed refund of the deposited amount with interest at the rate provided in the Bihar State Housing Board Act.

8. With the observations and directions above, these writ petitions are disposed of.