
(1998) 07 PAT CK 0101
In the Patna High Court
Case No : C.W.J.C. No. 6838 of 1996

Kapil Ram

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-07-1998

Acts Referred:

Citation : (1999) 1 PLJR 155

Hon'ble Judges : S.N. Jha, J

Bench : Single Bench

Advocate : Amber Nath Banerjee, for the Appellant; Ram Prasad Bhagat, for Housing Board, Shravan Kumar and Shola Sandhwar, for the Respondent

Judgement

S.N. Jha, J.—Heard counsel for the Petitioner, Respondent Housing Board and Respondent No. 6 Kedar Ram.

2. The dispute in this writ petition relates to allotment of a one-room tenement (loosely called "house") out of 616 such tenements constructed by the State Government under the "Home for Homeless" Scheme. It appears from the submissions made at the Bar that after the building was constructed the tenements came to be occupied by unauthorised persons. The Petitioner also in like manner occupied the tenement in question (described as house No. 207 in different orders annexed to the writ petition). As his occupation was unauthorised, complaint was made before the competent authority by Respondent No. 6 Kedar Ram who had, in the meantime, been allotted the house. By order dated 14.9.94 the competent authority directed eviction of the Petitioner from the aforesaid house. The Petitioner preferred appeal before the State Government. The Deputy Secretary, Building Construction and Housing Department exercising the delegated power of the State Government dismissed the appeal on 26.5.97. The Petitioner has challenged the validity of the said two orders.

3. In course of hearing it transpired that the Petitioner has already been evicted

from "house No. 207" on 24.10.97 during pendency of the case except from an area measuring 9 feet on the northern side.

4. After hearing counsel for the parties I am satisfied that the Petitioner had no legal right to claim allotment of a particular "house". The eviction from the "house" in question pursuant to the order of the competent authority, therefore, cannot be said to be illegal. At the same time it appears from the letter of the Additional Collector, Patna dated 8.3.94 that his case for allotment had been recommended by the Collector, Patna. From the decision of the Housing Board taken in the 96th meeting on 20.11.84 it appears that the "houses" were to be allotted on the recommendation of the Collector, Patna. It further appears from the said decision that out of 616 houses constructed under the aforesaid scheme only 376 houses had been allotted out of which also, possession had been delivered to only 264 allottees. These figures obviously reveal the state of affairs existing at the time of the decision, i.e. in the month of November, 1984. In course of hearing it was stated that 17 such "houses" are still vacant against which the Petitioner's case may be considered.

5. Mr. Ram Prasad Bhagat, learned Counsel for the Respondent Housing Board submitted that in terms of the aforesaid decision dated 20.11.84, the Petitioner cannot be considered for allotment in view of the order of eviction passed by the competent authority against him. He referred to paragraph 3 of the aforesaid decision. In my opinion, the decision as contained in paragraph-3 merely means that the person cannot be allowed the same very "house" which he unauthorisedly occupied and in respect of which the eviction order has been passed. In any view, there cannot be absolute bar against consideration of one's case for allotment of any other house. If such a decision had been taken by the Board it would have been highly unjust, illegal and arbitrary. In the present case, as indicated above, the case of the Petitioner appears to have been recommended by the Collector and in the light of the decision aforesaid, his case therefore can be considered for allotment.

6. The Respondents, particularly the Managing Director, Bihar State Housing Board, are accordingly directed to consider the case of the Petitioner for allotment of any other "house" out of aforesaid 17 "houses" which are said to be vacant or any other house and issue appropriate order at the earliest. As the Petitioner has already been evicted from the house, it would only be appropriate to direct the Managing Director to take final decision within a period of two months from, the date of receipt/production of a copy of this order. The Petitioner however must vacate the 9 feet land being portion of house No. 207, within the said period of two months.

7. This writ petition stands disposed of in the above terms.