
(2002) 02 PAT CK 0041
In the Patna High Court
Case No : C.W.J.C. No. 13408 of 2001

Mritunjay Kumar Roy

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 01-02-2002

Acts Referred:

Citation : (2002) 1 BLJR 561 : (2002) 1 PLJR 634

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Judgement

R.S. Garg, J.—The grievance of the petitioner appears to be that long years back, he had purchased a dream from the Housing Board which is turning out a nightmare as the Housing Board in its turn respecting the assurance in favour of the petitioner did not hand over peaceful, vacant and habitable possession of the flat. After the petitioner had approached this Court a notice was issued to the Housing Board, after receiving the said notice the Housing Board appeared and submitted to this Court that possession of the property shall be handed over to the petitioner. Some whitewash was done in the premise on the wall and some minor repairs were carried out to provide foundation to submit before this Court that the house was in habitable condition and the Housing Board was ready and willing to give possession of the property. The petitioner thereafter inspected the premises, was shocked and surprised when he learnt that the house was in bad shape. The whole building was occupied by the anti-social elements and but for small repair and some whitewash nothing important was done in the flat to make that habitable. Along with his rejoinder/additional affidavit the petitioner filed number of photographs to show the pitiable and dilapidated condition of the building.

2. Confronted with the additional facts with which the petitioner is now armed the respondent through their Counsel submits that in Block No. 12 as many as 256 MIG Flats were constructed, 18 flats were allotted and as many as 238 flats are in possession of the unauthorised occupants. To come out of this sorry State

of affairs the respondent-Housing Board submits that time and again the officers of the Housing Board made complaints to the State authorities, requested the District Magistrate and the police authorities to provide them police force, etc. for evicting the unauthorised occupants but nothing was done by them.

3. The learned Additional Advocate-General who is present in the Court was requested to look into the matter as this Court is seriously concerned about the property of the Housing Board or the properties belonging to the State Government. It must be remembered that the Housing Board was not created to provide shelter to the persons who had no authority to occupy these buildings but was created to provide habitable flats/houses to those persons who are entitled to occupy the same on payment of the price.

4. It is high time not only for the Housing Board but for the State Government to see that the unauthorised occupants are thrown away from such houses, buildings and land because on one side the Housing Board or the State by not taking action against the wrong, doer provides premises in their favour while on the other side the law-abiding persons have to rush from pillar to post. The framers of the Constitution must never have anticipated such a lawlessness where the criminals or alike would enjoy the bounty and honest citizens will have to rush to the Court and have to enter into long-drawn litigation which may prove to be futile and infructuous.

5. It is hereby directed that the Housing Board shall identify all its buildings and the unauthorised occupants in such building, shall serve notice on unauthorised occupants with the help and assistance of the local administration (District Magistrate and Superintendent of Police) require those occupants to prove the authorisation to occupy the said premises and if a finding is recorded that such persons are not legal occupants then shall take further action by informing the State Government through the District Magistrate that particular unauthorised persons/occupants be removed from the possession of the property. If such a request is made by the Housing Board to the District Magistrate so also to the Superintendent of Police, then the District Magistrate and the Superintendent of Police shall be duty-bound to provide force to the Housing Board for evicting such unauthorised persons who are occupying the premises which are built for the honest premises which are built for the honest citizens of the State.

6. The notices may be issued to such unauthorised occupants within ten days from today. For effecting service of such notices on such unauthorised occupants the Housing Board may seek assistance of the local administration, District Magistrate and Police authorities). If such a request for effecting service of notices is made to the local administration, then the local administration shall be obliged to see that the notices are served on such persons. The local administration is hereby forewarned that if anybody commits breach of this order, it would be a serious matter and such officers who are found guilty of lapses may be dealt with under the Contempt of Courts Act.

7. The matter be listed on 18th February, 2002. On the date, the Managing Director of the Housing Board shall file his counter in the form of additional affidavit informing this Court as to whether the flats are identified and what action is taken for effecting the service of notices of such unauthorised occupants. Copy of t this order be supplied to the Counsel for the parties.

8. The matter be listed for further hearing in the daily list.