
(2021) 03 JH CK 0106

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3049 of 2020

Shyama Nand Jha

APPELLANT

Vs

Jharkhand State Housing Board And Ors

RESPONDENT

Date of Decision : 10-03-2021

Acts Referred:

Citation : (2021) 03 JH CK 0106

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Aprajita Bhardwaj, Sachin Kumar

Final Decision : Disposed Of

Judgement

1. This case is taken up through video conferencing.
2. At the request of learned counsel for the petitioner, the defect(s), as pointed out by the office, is ignored.
3. The present writ petition has been filed for issuance of direction upon the respondents to show cause as to under what circumstance they have notified the petitioner's house being MRA-54, Argora Housing Colony, Ranchi in the list of houses/flats dated 3rd September, 2020 (Annexure-7 to the writ petition) notified for allotment to be made through lottery by the Jharkhand State Housing Board, Harmu, Ranchi, particularly, when the same has already been legally allotted to the petitioner way back in the year 2002 in which the petitioner has been living peacefully since then. Further prayer has been made for quashing the said list of houses notified by the Jharkhand State Housing Board, so far as the same contains the description of the petitioner's house i.e. MRA-54, at Argora Housing Colony, Ranchi, which are to be allotted to different persons through lottery by the Jharkhand State Housing Board. The petitioner has also prayed for issuance of direction upon the respondents to refrain from putting the petitioner's house for fresh allotment through lottery, as the petitioner is a legal allottee of the same.

4. Mrs. Aprajita Bhardwaj, learned counsel for the petitioner, submits that earlier this Court vide order dated 7th October, 2020 passed in W.P.(C) No.2750 of 2020, which was filed against Advertisement no.PR 232394 Jharkhand State Housing Board (2020-21)D published in the local newspaper dated 4th September, 2020, inviting applications from the public for allotment of flats/houses relating to 200 economically weaker sections (in short 'EWS'), had given liberty to the petitioner of the said case to file representation before the Managing Director, Jharkhand State Housing Board, Ranchi- respondent no.3, observing that the house in question would not be allotted in favour of any person till such decision is taken.

5. Learned counsel for the petitioner further submits that the house in question was allotted to the petitioner on 20th December, 2002 for which an agreement was also executed between the parties on the same day. The petitioner, thereafter, took possession of the said house and made considerable expenditure in renovating the same. However, on 19th August, 2015 the petitioner came to know that the Executive Engineer, Jharkhand State Housing Board, Ranchi-respondent no.4 had instituted an eviction suit against the petitioner, claiming that he had been in unauthorized possession of the said house. The petitioner appeared before the competent authority on 12th September, 2015 and submitted his reply, however, no decision was taken in the said case thereafter. In the meantime, the petitioner kept on making payment of rent of the said house regularly. Recently, in the month of September, 2020, the petitioner came to know that his house has also been included in the list prepared by the Jharkhand State Housing Board for fresh allotment to different persons through lottery. The petitioner has been in possession of the said house since 2002, the allotment of which has not yet been cancelled by the competent authority of the Jharkhand State Housing Board and hence inclusion of the said house in the list dated 3rd September, 2020 prepared and notified for making allotment of houses/flats through lottery is arbitrary and illegal.

6. Mr. Sachin Kumar, learned counsel, appearing on behalf of the respondents submits that the initial allotment made to the petitioner in the year 2002 was itself irregular, as the said house was meant for allotment on hire purchase basis and not on rental basis. There is already a stipulation in the agreement executed between the parties that even during subsistence of the lease/agreement period, the allottee has to vacate the house if the same is required by the Jharkhand State Housing Board for itself.

7. Having heard learned counsel for the parties and keeping in view that till date no order has been passed by the competent authority of the Jharkhand State Housing Board after institution of the eviction suit against the petitioner and he is still in possession of the same, without entering into merit of the case, the petitioner is directed to file a fresh representation before the respondent no.3 on the present issue within two weeks from the date of this order. On receipt of the said representation, the respondent no.3 after providing due opportunity of

hearing to the petitioner/his representative shall take an appropriate informed decision as expeditiously as possible preferably within a period of six weeks from the date of filing of the representation.

8. Till the said decision is taken by the respondent no.3, no coercive step shall be taken against the petitioner in relation to his eviction from the house in question.

9. The writ petition is, accordingly, disposed of with the aforesaid observation and direction.