

(2002) 08 PAT CK 0054

In the Patna High Court

Case No : C.W.J.C. No"s. 16448 of 2001 and 107 and 2846 of 2002

Sri Krishna Chandra Verma and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-08-2002

Acts Referred:

Bihar State Housing Board Act, 1982 — Section 88

Citation : (2002) 3 BLJR 1886 : (2002) 4 PLJR 115

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

Bench : Single Bench

Judgement

R.S. Garg, J.—Heard (earned Counsel for the petitioners, earned Counsel for the Housing Board and earned Counsel for the State.

2. The tragedy of the present petition is that the State Government created an organisation in the found hope with a laudable object that the citizens of the State would have some place to stay and would have a small house wherein they can reside treating it to be a castle, Unfortunately after delivering the baby the State Government sent it to an orphanage, the orphan in stead of proving to expectations of the State Government is behaving in a very nasty manner and is not proving responsible to its public duty and answerable to any cause for which it was created. The Housing Board allured the people by saying that on payment of certain amount, a plot, a parcel of land or a flat or something of that sort would be given to them. The public at large relied upon the assurances, after cutting their bread they saved money and paid it to the Housing Board under the found hope that after receiving the money the officers of the Housing Board shall prove honest to their words and assurances given to them. Unfortunately the Housing Board did not prove honest to its words and started raising one or the other defences saying that the land belonging to the Housing Board have been trespassed over by certain persons, the properties are not under the control of the Housing Board and as the State Government is neither helping nor assisting them, the Housing Board is not in a position to deliver the possession of the

property as assured by them to the persons, who had deposited their money. The tragedy does not end here. When certain persons made application for refund of their deposits in stead of refunding the money with interest at some rate, the Housing Board started deducting 20% from the said deposit inter alia observing that in a case where a person wants to withdraw from the commitment the Housing Board would be entitled to have a cut. In fact the Housing Board started behaving like Shylock, it wanted a pound of flesh so also a liter of blood.

3. It is further to be seen that sometime ago at the request of the Housing Board the State authorities provided them some protection and the armed forces, but the attempt failed and the mushroom growth of the trespassers continued.

4. In the present writs this Court took serious view of the matter and required the Housing Board to come out with a specific plan and show to the Court that in what manner the trespassers would be removed and the property would be freed from the clutches of ail such persons. After a wrangle and much hassle the Housing Board assured this Court that if allowed they would make an application to the District Magistrate for providing the armed forces and they would pay the necessary cost. This Court thought that the authorities have come out of their slumber and are ready to take some action but the dusk came before the dawn, in stead of asking for the local police assistance, the Housing Board very cunningly and to defeat the orders passed by this Court started making demand for the CRPF. The matter was referred by the District Magistrate to the Home Commissioner who in its turn referred the matter to the Central Government. The Central Government in its letter informed them that present appears to be a local law and order problem, therefore, and as the CRPF cannot be spared from the borders, the State must look into the matter. The Managing Director, Housing Board despite this was absolutely unruffled, he was thinking that he was required to sit in an air-conditioned chamber and do nothing beyond that. It is a general complaint against the Managing Director that he has affixed a board at his chamber that he would be available to meet public only on two days of a week that too only for half an hour.

5. In another writ petition when the matter was brought to the notice of this Court, this Court required the Managing Director to appear in the Court and make his stand clear. In stead of coming out of the vague stands rather dubious stand it was asserted on behalf of the Housing Board that as the Managing Director of the Housing Board is a simple Incharge of the office, he cannot spare much of the time. This all was going on in presence of the Counsel for the State. This Court required the Advocate General to appear and assist the Court and also required the Director General of Police to inform this Court but the old saying goes right that nothing goes right in this State. It appears that there is absolute anarchism and lawlessness and no body is responsible to anybody. The officers of the State Government are not ready to take any steps in accordance with law. They want money from their own creation for providing armed forces. The State which is to maintain law and order keep alive the public confidence in the system

and the authorities says that unless paid nothing can be done. The hooligans, Gundas and Rangdars are settled on the property belonging to the general public, though I do not wish to say beyond that but it appears that all such trespassers had some link at some place with some politicians, administrative officers or so. Despite deterrent directions of this Court the police officers, the State officers, the administrative officers and the Managing Director of the Housing Board are not taking any steps. What is further to be presumed is that the Government is not working properly and is not ready to nurse its own baby. On one side the State Government demands money from the Housing Board to provide police assistance and on the other hand placing its reliance upon Section 88 of the Bihar State Housing Board Act, the Board says that it is the duty of the State Government and its police officials to provide absolute help and assistance to the Housing Board.

6. In the fight of the stalwarts the ultimate sufferer is the public. The people are still awaiting the allotment and delivery of possession for more than 20 years. A generation changes in a long period of 20 years but most unfortunately the system has not changed here. Officers have come and gone in the Housing Board. Governments changed, assurances after assurances were given by politicians and the Party in majority but the Sun has not come out of the clouds. We the Indians are very patient, we may wait and await our lawful dues till eternity but the law has to take its own course. On a plot of assurance one cannot build a house because houses are built on assured plots and solid foundations. How can people console themselves for 20 years or more. Non-action and inaction on part of the Housing Board Administration Police and all other responsible is conveying a message that instead of being honest one should take law in his hands, enmesh his criminal and nuisance value and enjoy the fruits of his wrong. Our system taught us that one has to pay for crime but in the present days it appears that the crime pays. Bigger the crime bigger the achievement. Make encroachment, commit trespass and enjoy possession because in the dispute between the authorities no one would take any action. The Housing Board, the State Government and all others appear to be the birds of the same flock, nobody is ready to do anything but for making the lip service either on the roads or in the meetings or in the Court. Probably such actions to defeat the orders of the Court or non-action on the part of the State so also on the part of the Housing Board is perpetrated with a feeling that disgusted this Court may release the case. But, let me tell them that Judges of the High Court do not leave the cases and would try to bring those to its logical end and if required may require the highest authority of the State Government to appear in the Court and make its stand clear. Let me remind all such persons that howsoever high they are none is above law; if the law binds the publicist large then it binds the officers and the State Government also. Should the Court not feel jealous of the acts on the State and the Housing Board, and zealous too at the same time.

7. It was expected of the Housing Board that they would pay the money to the

State Administration and obtain the police assistance but it appears that they are not ready to budge a inch from their stand and are taking the sadistic pleasure in their in action/non-action.

8. Be that as it may, it is the high time where in stead of discussing the matter with the Counsel for the Board and the Managing Director, this Court should now require the higher authorities of the State Government to appear and show to the Court that what plans do they have to free the land of the Housing Board from the clutches of the wrongdoer and give possession of the same to the public, who had paid their hard earned money or in the alternative require the State and the Housing Board to refund the deposits with interest at the rate at which the Housing Board charges from the defaulter. It is to be noted at this stage that in number of matters of demolition, ousting the loan defaulters or such people, the police is assisting the authorities. Does this mean that the police uses its brutal force on those only who are law abiding and is afraid of law breakers? Impotence of police is a slur on the system.

9. The matter be listed for further consideration on 2nd September, 2002 on the top of the list.

10. The Home Commissioner, the Secretary, Housing Department shall remain in attendance to inform this Court that what particular plans do they have. The Managing Director, Housing Board shall also remain in attendance. The District Magistrate, the Director General of Police and the Senior Superintendent of Police, Patna shall also remain in attendance. It is made clear that if any officer remains absent on the said date, this Court shall issue non-bailable warrants to secure the attendance of such defaulting officer. This order is required to be passed to inform the higher authorities that they are not above law and are answerable to the Courts of law.

11. Let a copy of this order be given to Mr. V.N. Sinha, learned Counsel or the State for onward Communication.