

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.66 of 2020

1. Radhey Shyam Agrawal son of Late Ram Kumar Agrawal resident of Siwani House, Road No. 12, Rajendra Nagar, P.S. Kadamkuan, District/ Town- Patna (800016).
2. Subhash Kumar Agrawal son of Late Ram Kumar Agrawal resident of Siwani House, Road No. 12, Rajendra Nagar, P.S. Kadamkuan, District/ Town- Patna (800016).

... .. Petitioner/s

Versus

1. The Bihar State Housing Board having its office at, 6, Sardar Patel Marg, Patna Through its Managing Director.
2. The Managing Director, Bihar State Housing Board, 6, Sardar Patel Marg, Patna- 800001.
3. The Revenue Officer, Bihar State Housing Board, 6, Sardar Patel Marg, Patna- 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Chaudhary, Sr. Advocate
	:	Mr. Mohit Agarwal, Advocate
	:	Mr. Mukesh Prasad Singh, Advocate
For the Respondent/s	:	Mr. Pawan Kumar, Advocate
For the BSHB	:	Mr. Dr. Anand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 16-07-2026 Heard Mr. Ashok Kumar Chaudhary, learned Senior Counsel for the petitioners and Dr. Anand Kumar, learned counsel representing the Bihar State Housing Board (henceforth for short 'the Board').

2. The present petition has been preferred for the grant of following relief(s):

“for issuance of writ in the nature of writ of certiorari for quashing the letter dated



05.08.2014 (Annexure-12) and letter dated 30.07.2018 (Annexure 15) issued by the Deputy Revenue Office and Revenue Officer, Bihar State Housing Board by which a demand for Rs.1,04,42,938.77 by 31.10.2014 has been raised against the petitioner's Plot No. DS-24D at Lohianagar, Patna which was allotted to the petitioners in an auction sale and the petitioners have already deposited the entire bid amount with applicable interest in terms of agreement dated 13.04.1985 (Annexure-3) by 19.12.1995 (Annexure -6); and when the petitioners raised objection regarding calculation and applicability of interest, then the Board vide letter dated 30.07.2018 (Annexure-15) has communicated that "as per Board's decision compound interest is chargeable" (although the Hire Purchase Agreement stipulates for simple interest on account of delay in payment of installments).

And further for issuance of writ in the nature of writ of mandamus directing the



respondents - Board to calculate the demand on the basis of applying simple interest on delayed payment of installments if any, and thereafter to execute Lease Deed in favour of the petitioner on payment of fresh demand.

And for issuance of writ/order/direction for which the petitioners may be found entitled in the facts and circumstances of the present case.”

3. The matter relates to a piece of land [**Plot No. DS-24D situated at Lohianagar, Patna**] which belong to ‘the Board’.

4. ‘The Board’ auctioned series of lands (which included the aforesaid land) under the signature of its Managing Director dated 31.01.1984. The terms of auction read as follows:

“1. In addition to 10% already paid on or before 9.2.84, a sum equivalent to 15% (fifteen percent) of the bid amount shall have to be paid to the credit of the Board by the highest bidder by 27.3.84, Failure to deposit the aforesaid amount by the aforesaid date shall



automatically result in forfeiture of the security amount of Rs.10,000/- (Rupees ten thousand) as also the amount equivalent to 10% of the bid amount and his application and bid shall stand rejected.

2. Allotment order will be issued only after the aforesaid amount equivalent to 25% (Twenty five percent) of the bid money has duly been deposited and credited to the Board's accounts.

3. The balance amount of the bid money for the concerned residential/commercial plot will have to be deposited and credited to the Board's account by the successful bidder in six equated half yearly installments beginning from the date of issue of the allotment order with interest at the rate of 14% (fourteen percent) per annum. In case of first default in depositing any installment, the interest shall be charged at 18% (eighteen percent) per annum of the total amount due but in cases of default in depositing two consecutive installments, the allotment shall stand cancelled and all deposits, payments



security amount etc. made so far shall stand forfeited and the allotment cancelled.

4. Possession over the settled plot of land will be delivered to the successful bidder in vacant condition after execution and registration of the agreement in the prescribed form and after performing all necessary formalities as per the equipments of the Bihar State Housing Board Act, 1982 and rules, regulations etc. made there under.”

5. Pursuant thereto, the petitioners participated and were successful bidder for the aforesaid plot. Accordingly, letter dated 06.06.1984 was issued to this effect by ‘the Board’ and this followed the agreement between the parties on 12th April, 1985. It is important to incorporate clause 4 and 8 of the said agreement signed between the parties and read as under:

“4. That the settlee will pay to the Board without waiting for any demand the remaining 75% cost of the said plot of land with as interest @ fourteen per cent (14%) per annum thereon chargeable from the date of delivery of possession in six equated half yearly instalment



a sum of Rs.58,534/- (Rs. Fifty eight thousand five hundred thirty four) only to be paid within the 15th day of the following month on which the instalment become due.

8. That interest @ 14% (Fourteen per cent) per annum shall be charged on all dues, beginning from the date of the delivery of possession over the said plot. In case of first default in depositing any instalment interest shall be charged @18% eighteen per cent per annum of the amount due. But in case of default in depositing two consecutive instalments the allotment shall stand cancelled, and all deposits, payments etc. made shall stand forfeited.”

6. The aforesaid agreement clearly records that from the date of delivery, the allottee will have to pay the rest of the amount in six equal half yearly installment at the rate of Rs.58,534/- only to be paid by 15th day of the following month which the installment become due. It was also clear that 14% interest per annum shall be charged beginning the date of delivery of possession and in case of first default, it will



increase to 18% per annum and in case of default of depositing two consecutive installments, the allotment shall be canceled and all the deposits/payments shall be forfeited.

7. The petitioners got the possession of the said land on **08.03.1989**. In that circumstance, the dates on which the payments that were to be made as per the agreement is/are as under:

- (i) 15.10.1989;*
- (ii) 15.04.1990;*
- (iii) 15.10.1990;*
- (iv) 15.04.1991;*
- (v) 15.10.1991*
- (vi) 15.04.1992.*

8. However, in complete defiance of the agreement signed between the parties, the petitioners came up with the first payment of Rs.1,00,000/- only on **09.03.1992**, i.e. three years after they got the possession. They again slept over the matter and two years later, on 22.01.1994, another Rs.1,80,000/- was paid.

9. So far as 'the Board' is concerned, on 25.04.1990, it should have issued the letter of annulment of the plot as the petitioners failed to pay the successive second installment and also had the right to forfeit the earlier deposited amount.



10. However, it slept over the matter and it was only on 06.12.1995, that the direction was given to pay Rs.93,134/- failing which the allotment shall be canceled. The petitioner was prompt enough to clear the amount on 18.12.1995.

11. Fourteen years later, vide letter no. 10789 dated 25.11.2009, 'the Board' drawing the attention of the petitioners to earlier letter no. 2765 dated 18.06.2001 informed that they were supposed to pay Rs.11,61,427/- (calculated on the delayed payment interest up to 31.07.2001) but they chose not to make any payment and as such, by 30.11.2009, the total due accrued was Rs.46,33,530/- which the petitioners were to clear.

12. The petitioners submitted their reply two years later on 17.11.2011 informing that they were to pay only Rs.3,51,204/- as per the sixth installment but had actually paid Rs.3,73,134/-. As such, there is no due against them.

13. Once again and in continuation with the sleeping mode in which 'the Board' has the habit to go, it finally informed the petitioners to pay Rs.94,10,288.43/- immediately on 21.03.2014 which followed another letter dated 05.08.2014.

14. The petitioners submitted its reply three years later on 13.09.2017 asking for the calculation chart else, they shall be constrained to approach the Court. A petition was also



filed to calculate the amount at the rate of simple interest which **vide letter no.3705** dated **30.07.2018** came to be rejected by 'the Board'.

15. This followed the filing of the writ petition two years later in the year 2020.

16. Learned Senior Counsel for the petitioner submits that allotment was made, due to some economic reason, the delayed installment amount was paid, 'the Board' never informed about the payment of the interest amount alongwith the calculation chart at an earliest and as such, after a long gap, they cannot be allowed to demand such a huge amount.

17. It is to be noted that 'the Board' has filed counter affidavit. Though, it skipped on why despite the petitioners having defaulted in making payment of two equal installment after the delivery of possession was made, the allotment was not canceled and/or why they were given a long rope as recorded on 18.06.2001, it recorded that the request was made to make payment of Rs.11,61,427/- which was ignored by the petitioners.

18. The said statement has been made in paragraph no.14 of the counter affidavit filed by 'the Board' and reply of the petitioner to the counter affidavit is in paragraph no.13



wherein they state that the Board's demand was erroneous and illegal in nature. However, there is no rebuttal that the notice of demand made in the year 2001 was not served upon them and thus it can be construed that they had the knowledge of the demand of Rs.11,61,.427/- but deliberately chose not to respond.

19. The most disturbing picture of the entire episode is that 'the Board' which has been constituted to protect the interest of the State while making allotment, in complete defiance of the rules and regulations as also the agreement between the parties, actually treated the State's property as its private property as the way they allowed the petitioners to defy the terms of agreement takes this Court to only the aforesaid conclusion.

20. The petitioners defaulted for three long years, however, no step whatsoever was taken to cancel the said allotment and re-allot it to other needy person in accordance with law. This also put 'the Board' to financial loss for which those sitting at the relevant time must face music.

21. Certainly, role of 'the Board' is questionable and appropriate enquiry need to be conducted whether it is one off case of the petitioners herein or 'the Board' has resorted to



these practices in several such cases where despite payment not made by the allottees, no step was taken for canceling the allotment of the land in accordance with law.

22. So far as the petitioners are concerned, their role is also condemnable. They took the delivery of plot in the month of March, 1989 and thereafter slept over the matter despite signing the agreement assuring payment in six equal installment which should have come to an end on 15.04.1992. They actually made the first payment only in the month of March, 1992, in that background, the petitioners having been found at fault, cannot be allowed to dictate the terms.

23. At this stage, learned Senior Counsel for the petitioners submit that if a proper calculation chart is handed over to them, they are ready to make the payment so that the allotment is regularized. The allotment having been made in the year 1989, annulment will greatly prejudice their cases.

24. The entire facts have been recorded which paints 'the Board' in a very bad frame and as such, as they themselves have been at fault, they need to amend the things if the petitioners are ready to pay the amount.

25. This Court thus directs the petitioners to appear before the **Managing Director** of '**the Board**' on **27.07.2026**



at **11 AM** whereafter the Officer shall be free to fix any date/time according to his/her own convenience. A proper calculation chart shall be handed over to the petitioners strictly in the line with the agreement signed between the parties as recorded in paragraph nos. 4 and 8 of the agreement.

26. As lots of water has flown down the Ganges and even four decades later, the parties are fighting the battle, in that background, this Court further want the entire steps to be completed within a time frame.

27. The Managing Director of 'the Board' shall ensure that the calculation chart is handed over to the petitioners latest by 31.08.2026. As the petitioners have made request to allow them to pay the amount in six months, the calculation chart must include interest upto the next six months from the date it is provided..

28. The petitioners shall be making payment within a period of six months from the date, 'the Board' hands them over the calculation chart. It is further made clear that the calculation chart must be comprehensive so that it be easily understandable to any layman and should not be complicated one.

29. Needless to add, if the petitioners fail to pay the



amount within six months from the date they receive the chart, and/or defaults, 'the Board' shall be free to take steps for the annulment of the plot no. DS-24D, Lohianagar, Patna in accordance with law. Any laxity this time by 'the Board' shall be construed as contempt of Court.

30. The writ petition is disposed of with the aforesaid observation.

(Rajiv Roy, J)

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