

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1387 OF 2001

BIHAR STATE HOUSING BOARD & ORS.

Appellant (s)

VERSUS

HEMENDRA PRASAD

Respondent(s)

(With office report)

Date: 29/08/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. Ajit Kumar Sinha,Adv.

For Respondent(s)

Mr. S.K. Sinha,Adv.

UPON hearing counsel the Court made the following
ORDER

The appeal is disposed of in terms of the signed order. No order as
to costs.

(Ajay Kr. Jain)
Court Master

(Neeru Bala Vij)
Court Master

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1387 OF 2001

Bihar State Housing Board & Ors.

.... Appellants

Versus

Hemendra Prasad

.... Respondent

ORDER

1. Heard learned counsel for the parties.

2. This appeal by special leave is directed against the judgment and order

dated 04.11.1999 of the High Court of Judicature at Patna, Ranchi Bench in Letters Patent Appeal No. 137/1998 (R) whereby the learned Division Bench of the High Court has affirmed the order passed by the learned Single Judge. and dismissed the appeal filed by the appellant-Board herein. The learned Single Judge has quashed the demand and directed the appellant-Board to reconsider the matter and pass appropriate order calculating the amount payable by the respondent-petitioner without any interest as there was no fault on the part of the respondent-petitioner.

3. It is not necessary for us to give detailed facts. Suffice it to say that the respondent-petitioner applied for allotment of a house to the appellant-Housing Board and the tentative price for the flat was fixed at Rs. 50,861/-, which was paid by the respondent. Thereafter an additional demand of Rs. 75,580/- was raised upon the respondent-petitioner by the Board vide its communication dated 7.4.1995. Subsequent thereto another notice dated 29.9.1995 was sent to the respondent whereby the demand was raised to Rs. 78,292/-. Meanwhile, the possession of the flat was handed over to the respondent on 4.12.1979. The respondent approached the High Court by way of a writ petition challenging the demands raised by the appellant- Housing Board. The learned Single Judge of the High Court while quashing the demand directed the Housing Board to reconsider the matter and pass appropriate order calculating the amount payable by the petitioner-respondent without any interest as there was no fault on the part of the petitioner-respondent. The said order of learned Single Judge was challenged by the Housing Board in appeal before the Division Bench. The said appeal has also been dismissed by the the impugned order. Hence, the present appeal by special leave.

4. We have heard learned counsel for the parties and perused the record. So far as the escalation of the price is concerned, the respondent is required to pay that escalated price, because the initial price was only tentative vide letter dated 29.9.1977. The only question is from what date interest has to be paid on the enhanced amount. The appellant-Housing Board issued a notice to respondent for claiming enhanced amount of Rs. 75,780/- on 7.4.1995. Subsequently, another notice dated 29.9.1995 was issued claiming a sum of Rs. 78,292/- from the respondent. In our opinion, the respondent is required to pay

interest on the escalation price from the date of notice, i.e. 7.4.1995 which was later enhanced vide notice dated 29.9.1995. The appellant is not entitled to interest prior to that date. If the respondent is required to pay the enhanced price from one month after the date of notice then of course the Housing Board is entitled to claim interest only from that date and not prior to that date.

Therefore, instead of remitting the matter back to the Housing Board, we direct that the Housing Board will be entitled to realize the escalated price of the flat but the interest on the escalated price will be payable by the respondent from one month after the second notice dated 29.9.1995. The interest will however be at the prescribed rate. The Housing Board will not be entitled to charge any interest prior to 29.9.1995. With this modification, the appeal is disposed of. If the difference amount has not been paid by the respondent so far, it shall be deposited by him alongwith interest, to be calculated in the above terms, within a period of three months from today.

5. This appeal is accordingly disposed of. No order as to costs.

(A.K.MATHUR)

.....J.

(MARKANDEY KATJU)

.....J.

New Delhi
August 29, 2007