

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1762 of 2015

With

I.A. No.1042 of 2015

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M/s Naturals Dairy Pvt. Ltd. a company registered under the Companies Act, 1956 having its registered office at NS- 11, Patliputra Industrial Area, Town and District Patna through its Managing Director Sri Hemant Kumar Das, son of Sri Awadhesh Kumar Das, resident of 504, White House, Block- A, Budha Marg, P.S. - Kotwali, Town and District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary –cum- Commissioner, Department of Industries, Govt. of Bihar, Patna.
2. The Principal Secretary –cum- Chairman of Bihar Industrial Area Development Authority, Department of Industries, Govt. of Bihar, Patna.
3. The Bihar Industrial Area Development Authority having its office at Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
4. The District Magistrate –cum- Collector, Patna.
5. M/S Maya Foods and Drinks Private, Ltd., Patliputra Industrial Area, Patna through its Managing Director.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 7052 of 2015

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M/s Uttam Pipes Pvt. Ltd. having its registered office at 46 Patliputra Colony, Patna and its factory site at C-8 Patliputra Industrial Area Patna through its General Manager cum Authorized Signatory Shri R.K. Bharti, son of Dr. N.K. Bharti, resident of 46, Patliputra Colony, P.S. - Patliputra, District - Patna - 800013.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of Industries, New Secretariat, Baily Road, Patna.
2. The Chairman of Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna through its Chairman.
3. The Managing Director, Bihar Industrial Area Development Authority having its office at Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority having its office at Ydyog Bhawan, East Gandhi Maidan, Patna.
5. The Regional Authority, Bihar Industrial area Development Authority, Patliputra Industrial Area, Patna.
6. The District Magistrate cum Collector, Patna.
7. M/S Maya Food and Drinks Private Ltd. Patliputra Industrial Area, Patna through its Managing Director.

.... Respondent/s

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Appearance :

(In CWJC No. 1762 of 2015)

For the Petitioner/s

:

Mr. Gautam Kumar Kejriwal

For the Respondent-State : Mr. Ashok Kumar, SC-11
 For the respondent-BIADA : Mr. Rajeev Ranjan Prasad
 Mr. Rajendra Kumar
 For the private Respondent : Mr. Anand Kumar Ojha
(In CWJC No. 7052 of 2015)
 For the Petitioner/s : Mr. Gautam Kumar Kejriwal
 For the Respondent-State : Mr. Rewati Kant Raman, AC to GP-31
 For the respondent-BIADA : Mr. Rajeev Ranjan Prasad
 Mr. Rajendra Kumar
 For the Private Respondent : Mr. Anand Kumar Ojha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 01-09-2015

Since issues raised and relief prayed are similar in both the writ petitions hence with the consent of the parties they have been heard together and are being disposed of by this common judgment at the stage of admission itself.

Heard Mr. Gautam Kumar Kejriwal, learned counsel appearing on behalf of the petitioner in the writ petitions in question, Mr. Rajeev Ranjan Prasad, learned counsel appearing for the Bihar Industrial Area Development Authority (hereinafter referred to as 'the BIADA' for the sake of brevity), Mr. Anand Kumar Ojha, learned counsel appearing on behalf of the private respondent in each of the writ petitions and counsel for the State in the respective writ petitions.

The writ petitioners are aggrieved by the allotment made by the respondent 'BIADA' in favour of the private respondent. Whereas it is the grievance of the petitioner in CWJC No.1762 of 2015 that the allotment in favour of the private



respondent has obstructed his entry to the 30 feet road lying west to his plot and thus the allotment in favour of the private respondent would be contrary to the stipulations of the lease-deed present at Annexure-2 which reflects a 30 feet wide road in the western portion of the plot, it is the complaint of the other writ petitioner that the allotment in favour of the private respondents obstructs his entry and exit on the southern end of the 30 feet road.

Reliance has been placed by Mr. Kejriwal to a Bench decision of this Court arising from CWJC No.7354 of 2007 (City Auto Service vs. The State of Bihar) to submit that once a plot is allotted in terms of the master plan which shows a road adjacent west to the plot of the petitioner then this facility cannot be withdrawn unilaterally. It is the submission of Mr. Kejriwal that since admittedly a road exists on the western side of the plot so allotted to the petitioner bearing N.S. Plot no.11 the allotment made by 'the BIADA' in favour of the private respondent closes this option. Identical arguments have been advanced by Mr. Kejriwal while espousing the cause of the other writ petitioner.

Responding to the issues raised it is submitted by Mr. Prasad, learned counsel appearing for 'the BIADA' that the 30 feet wide road situated on the western boundary of the writ petitioner in CWJC No.1762 of 2015 and on the eastern side of the other writ



petitioner in fact ends on its southern side and across which a railway line is situated. It was submitted that since the said area meeting at a dead end was being misutilised for anti-social activities that a complaint was made by the Bihar Industries Association and a decision was taken to such effect primarily to put an end to these anti-social activities while providing benefit to a willing entrepreneur. He submits that although the access to the 30 feet road for the petitioner in CWJC No.1762 of 2015 does get curtailed but this position has been willingly accepted by the petitioner who has entered into a compromise with the private respondent, a copy of which is placed at Annexure-A to the counter affidavit filed in CWJC No.1762 of 2015. It is the contention of Mr. Prasad that although the disputed plot no.C-35 was allotted in favour of the private respondent as back as in the year 2010 but no objection was raised by the writ petitioner in CWJC No.1762 of 2015 at any point of time rather he willingly entered into a compromise with the private respondent. He thus submits that in the circumstances so existing the petitioner is estopped from raising any objections.

Responding to the contentions advanced on behalf of the writ petitioner in CWJC No.7052 of 2015 it is submitted that he is an allottee of the year 2014 and thus he has obtained allotment with open eyes knowing fully well that the 30 feet road ends in the



plot allotted to the private respondent. He submits that no doubt there is some alteration in the 30 feet road in the southern end but in view of the fact that it ends at a dead-end and does not affect anybody's rights, a decision was taken in consideration of the aforesaid circumstances. Responding to the decision of this Court in City Auto Service (supra) it was submitted by Mr. Prasad that the circumstances were different in the said case.

Mr. Ojha, learned counsel appearing on behalf of the private respondent has submitted that the private respondent having been allotted a small plot admeasuring 1200 sq. ft. has been subjected to repeated attacks at the hands of the other allottees and the first of which was way back in the year 2007 when another allottee, namely, M/S Radha Forging initially sought to question the allotment process initiated in favour of the private respondent through CWJC No.13208 of 2007 and since the allotment was made during the pendency of the writ petition that it was sought to be questioned by filing an interlocutory application. He submits that said M/s Radhe Forging after contesting the matter ultimately chose to withdraw the writ petition which was dismissed as not pressed vide order passed on 8.8.2012. He submits that three years later the two writ petitioners have cropped up raising the same issue and at a stage where practically the unit of the private respondents is ready

for commercial production.

I have heard learned counsel for the parties and I have perused the records.

Apart from the fact that the petitioners have approached this Court rather belatedly there are other issues which do not persuade this Court to grant indulgence to the issue raised by the petitioners. In fact before dealing with the issue raised by the writ petitioners, I would first consider the order of this Court in CWJC No.7354 of 2007 (City Auto Service vs. The State of Bihar) which was a case where the road lying adjacent to the plot of the said writ petitioner was being blocked in favour of an allottee inter alia on grounds that the petitioner has an alternative access. The submissions advanced by 'BIADA' did not find favour with the Court. The facts in the present case are rather different. The 30 feet road in question runs into a dead-end and across which, lies a railway line. The maps brought on record further show that a boundary runs across the Industrial Estate. It is also not the case of the petitioners that the plot so allotted in favour of the private respondent bearing Plot no.C-35 has an outlet towards southern end. Meaning thereby the stand taken by 'the BIADA' that the plot ends in a dead-end stands confirmed.

In the circumstances discussed and considering that



the area in question was being used for anti-social activities coupled with the fact that it provides an opportunity to an intending entrepreneur, the allotment in favour of the private respondent even though affects the access of the writ petitioner in CWJC No.1762 of 2015 on the western side but then taking note of the fact that although the allotment was made in 2010 the writ petitioner raised no issue rather went on to enter into a compromise with the allottee as to the mode and manner of usage, he is estopped from raising any issue on violation of lease conditions. A copy of the compromise is placed at Annexure-A to the counter affidavit and is dated 11.5.2011. It is rather surprising that the allotment took place in 2010 with the compromise in 2011 and it has taken four years for the petitioner to realize that his rights were being curtailed. In my opinion the obstruction whatsoever that was being caused to the petitioner in CWJC No.1762 of 2015 in so far as its western outlet is concerned stood compromised in the agreement on 11.5.2011 and he can raise no objection thereafter. Thus apart from the fact that the writ petitioner raises stale issues even in view of the compromise in between the petitioner and the private respondent present at Annexure-A to the counter affidavit, the writ petitioner in CWJC No.1762 of 2015 can raise no grievance.

Coming to the petitioner in the other writ petition in

my opinion the allotment having taken place way back in 2010 the writ petitioner in CWJC No.7052 of 2015 was well aware of the development and with all consciousness has entered into an agreement with 'the BIADA' as late as in February 2013 and thus he cannot raise any objection in respect of an allotment which took place much before his allotment. Even otherwise considering that the 30 feet road running east to the plot of the petitioner in CWJC No.7052 of 2015 in no manner curtails his access to the 30 feet road rather meets at a dead end, no prejudice can be claimed by the petitioner.

For the reasons aforementioned I am not persuaded to grant indulgence to the issues raised in the two writ petitions which along with the interlocutory applications are accordingly disposed of.

(Jyoti Saran, J)

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