

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.53 of 2013

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1. Raj Kumar Somani S/O Shri Ridh Karan Somani Resident of Mohalla- Lal Bazar, P.O. + P.S.- Bettiah, District- West Champaran. Partners of M/S Champaran Timber & Allied Product
 2. Ranjeet Kumar S/O Shri Ratnesh Prasad Resident of Mohalla- Hari Vatika Chowk, P.O. + P.S.- Bettiah, District- West Champaran. Partners of M/S Champaran Timber & Allied Products

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Patna represented through its Managing Director, the Bihar Industrial Area Development Authority, Patna
2. The Managing Director, The Bihar Industrial Area Development Authority, Patna
3. The Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur through its Director, the Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur
4. The Director, the Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur
5. The Officiating Director, the Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur
6. The Area Officer, the Bihar Industrial Area Development Authority, Regional Office, Bettiah, West Champaran
7. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Anu Priyadarshni, Adv.
Mr. Amit Bhushan, Adv.
For the Respondent/s : Mr. Roy Shivaji Nath, AAG 4
For the BIADA : Mr. Rajiv Ranjan Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-11-2015

Heard Mr. Shri Prakash Srivastava, learned counsel and Mr. Rajiv Ranjan Prasad, learned counsel for the Bihar Industrial Area Development Authority (hereinafter referred to as 'the BIADA').

The two petitioners claiming to be partners of M/s Champaran



Timber and Allied Products in the district of West Champaran filed the writ petition praying for a writ in the nature of mandamus for commanding the respondent Nos. 2 to 4 i.e. the authorities of the BIADA not to interfere with the functioning of the saw mill in question being run in the name of M/s Champaran Timber and Allied Products. While the writ petition is pending consideration before this Court that final orders have been passed by the BIADA as communicated vide Memo no.1960 dated 22.9.2014 whereunder the lease deed entered in between the petitioner M/s Champaran Timber and Allied Products and the BIADA has been cancelled.

Perusal of the order manifests that it is on grounds that unit was not functional as well as on grounds that the partners to the firm never responded to any of the notices that the cancellation has taken place.

The pleadings on record manifests that a lease was entered in between the BIADA and the petitioner with its partner being Shri Kanti Lal Gajjar and Shri Raj Bali Gajjar. Subsequently with due permission of the BIADA that the partnership was altered to include the name of two others namely Dinesh Kumar Gajjar and Pramod Kumar Gajjar and which was duly approved by the BIADA vide communication dated 31.8.1988 present at Annexure-18 to the second supplementary affidavit. These two petitioners have entered the partnership subsequently in 1999 and when the partnership was



altered to include these petitioners upon retirement of Dinesh Kumar Gajjar and Mukesh Kumar Gajjar. Although Clause 6(ii) of the lease deed cast an obligation on the partners to seek a prior permission from the BIADA before making any alteration in the constitution of the partnership but it is the stand of the respondents in the counter affidavit that no such permission was obtained.

Mr. Sri Prakash Srivastava learned counsel for the petitioners with reference to the documents on record has tried to support the case of the petitioners by submitting that since after the induction of these two petitioners into the partnership, it continued and the petitioners have also liquidated the dues and which would thus sufficient indication of their induction into the partnership but such stand is being contested by the respondents.

Fact remains that Clause 6(ii) of the lease deed present at Annexure-2 does not stand satisfied for neither any application seeking consent from the BIADA for the induction of these two petitioners is on record nor there is any order to such effect. In these circumstances, these two petitioners would be a stranger to the cancellation of the lease deed until such time they are inducted into the partnership under an acceptance of the BIADA. These two petitioners are admittedly not recognized as partners by the BIADA as per the lease deed present at Annexure-2 as it stands modified by

Annexure-18. As I have already observed until such time that the petitioners would seek their induction to the partnership of the firm after obtaining prior consent of the BIADA they have no locus either to maintain the writ petition or to question the cancellation.

The writ petition is accordingly disposed of leaving it open for the partners to the lease deed as recognized by the BIADA to question the cancellation before the appropriate authority/forum, if so advised.

(Jyoti Saran, J)

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