

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.475 of 2015

IN

Miscellaneous Jurisdiction Case No. 852 of 2014

=====

Mr. Bhogendra Lal, The Acting Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Regional Office, Barari, District- Bhagalpur.

.... Opposite Party -Appellant/s

Versus

1. Mrs. Varsha Jain, Wife of Rupesh Kumar Baid, Resident of 33/C, Patel Babu Road, P.O.-Bhagalpur Head Post office, District- Bhagalpur.

.... Petitioner-Respondent 1st Set.

2. Mr. Deepak Kumar, Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.

.... Opposite party - Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Lalit Kishore, Senior Advocate
Mr. Girijish Kumar

For the Respondent/s : Mr. Anil Kumar Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 17-04-2015

This Letters Patent Appeal is preferred against the order dated 21.01.2015 passed by the learned Single Judge in Miscellaneous Jurisdiction Case No.852 of 2014 in CWJC No.1176 of 2012.

The facts, in brief, are as under:

The 1st respondent filed an application before the appellant for allotment of a plot in the Industrial Area, Bhagalpur. The application was not considered on account of two reasons. The first was that the husband of the appellant is said to have made encroachment on the boundary wall of the BIADA, and the second is that the application was defective. The 1st respondent filed the writ petition challenging the non-allotment of the plot. The learned Single Judge disposed of the writ petition directing that in case the husband of the 1st respondent removes the encroachment and the 1st respondent rectifies the defect in the application, her application shall be considered.

Thereafter, the competent authority of the appellant considered the application on 26.04.2013. It was observed that the 1st respondent made a request for allotment of plot of the size 15000 sq.ft and since the plot of that size was not available; her application shall be considered at a later point of time. At that stage, the 1st respondent filed a contempt case.

On receiving notice, in the contempt case the appellant pleaded that the entire matter is now under consideration by the Hon'ble Supreme Court in Civil Appeal No.8913 of 2013 and in the light of that, no allotment, as prayed for, by the 1st respondent can



be made. Taking that into consideration, the learned Single Judge passed the order under appeal holding that since the writ petition was disposed of on 28.06.2012, the arrangement directed by the Hon'ble Supreme Court in order dated 03.10.2013 in Civil Appeal No.8913 of 2013, does not apply. A direction was also issued to consider the case of the 1st respondent as per policy that existed on 26.04.2013. Hence, this Appeal.

Heard Sri Lalit Kishore, learned Principal Additional Advocate General for the appellant and Sri Anil Kumar Singh, learned counsel for the 1st respondent.

Basically, we find that the very maintainability of the contempt case becomes doubtful. The reason is that the only direction issued in the order dated 28.06.2012 passed in the writ petition was that in case a) the husband of the 1st respondent removes the encroachment over the boundary wall of BIADA; and b) the 1st respondent rectifies the mistake in the application, her case, "may be considered for allotment of land in the concerned Industrial Area in accordance with law".

The request of the 1st respondent was to make allotment of a plot of 15000 sq. ft. In its meeting held on 26.04.2013, the appellant observed that plot of the size 15000 sq.ft. is not immediately available and as such the application of the 1st



respondent could be considered at a later point of time. Shortly thereafter, the Supreme Court passed an order on 03.10.2013 in the Civil Appeal directing that the details of the vacant plots in the Industrial Areas shall be made available to it. It is stated that in compliance of the order issued by the Hon'ble Supreme Court, a new policy was evolved with effect from 26.11.2013. When this was brought to the notice of the learned Single Judge, a view was expressed that the application must be considered in accordance with procedure that existed as on the date of the order in the writ petition.

Firstly, no right as such has accrued to the 1st respondent for being allotted a plot. At the most, she could have insisted that her application be considered. It hardly needs any emphasis that the consideration of the application of this nature is required to be in accordance with the procedure that is in vogue, as on the date of the consideration. Secondly, if the 1st respondent is of the view that the steps taken by the appellant are not in accordance with law, the only course left open to her is to file a separate writ petition. Since no positive direction as such was issued in the writ petition, it cannot be said that there was any act of contempt, on the part of the appellant.

We, therefore, allow the appeal and set aside the order

dated 21.01.2015 passed by the learned Single Judge in MJC
No.852 of 2014 in CWJC No.1176 of 2012.

Interlocutory application, if any, shall stand disposed
of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

Sunil/-

U			
---	--	--	--