

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23105 of 2013

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1. Md. Quamrul Haque son of Late Md. Jamadhar Ali Resident Of Village- Chhamalia, P.O- Taiabpur, P.S- Kishanganj, District- Kishanganj.
 2. Janak Prasad son of Late Khitu Ray Resident Of Mohalla Hospital Road, Kishanganj, P.O. PS And District- Kishanganj.
 3. Ashok Kumar son of Late Ram Bahadur Singh Resident Of Mohalla Molibagh Ward No. 17, P.O, P.S And District- Kishanganj.
 4. Ramjee Lal Shrivastava son of Late Hridaya Narayan Lal Resident Of Mohalla Hospital Road, Kishanganj, P.O. PS And District- Kishanganj.

.... Petitioner/s

Versus

1. The State Of Bihar Through The District Magistrate Kishanganj.
2. The Commissioner, Purnea Division, Purnea.
3. The District Magistrate, Kishanganj- Cum- Chairman District Township Development Abhikaran, Kishanganj.
4. Additional Collector- Cum- Secretary, District Township Development Abhikaran, Kishanganj.
5. Sub- Divisional Officer, Kishanganj, District- Kishanganj.
6. Anchal Adhikari, Kishanganj, District- Kishanganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amal Kumar Sinha
For the Respondent/s : Mr. Anil Kr. Upadhyay, SC 20

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 22-09-2015 Yesterday, when the matter was taken up it was informed by learned Standing Counsel No. 20 that despite his best effort he was not able to get instruction. Accordingly, the case was adjourned for the day. Sri Anil Kumar Upadhyaya, learned SC No. 20 submits that yesterday evening he received some instruction wherein, a prayer has been made for requesting the Court to grant time.

The present writ petition was filed in the month of

November, 2013 after serving copy of the same on the State Counsel. Thereafter, on 22.7.2015 on the prayer made by learned counsel for the State, the case was adjourned for four weeks. Again, on 20.8.2015 on the prayer made by learned counsel for the State further four weeks time was granted with an indication that adjournment is being granted as a last indulgence. Accordingly, the prayer for adjournment stands refused.

In the present writ petition four petitioners have prayed for directing the Respondents particularly the Respondent No. 3 for allotment of shops for which installments were paid by all the petitioners. Alternatively, it has been prayed to direct the Respondents to refund the deposited amount.

Learned counsel for the petitioners submits that statement has been made in the writ petition for directing the Respondents to refund the deposited amount with penal interest at the rate of 18% per annum.

Short fact of the case is that the petitioner no. 1 who was Ex-Naval Personnel and petitioner no. 2 to 4 on an advertisement being made by the District Administration for establishing new market under a scheme namely "SWABITT POSHIT ROJGAR YOJNA" had applied for allotment of shops, which were going to be constructed by the District



Administration. For allotment of the shops the petitioners deposited certain amount. In paragraph no. 7 of the writ petition a specific statement has been made that petitioner no. 1 deposited total amount of Rs. 74,280/- through two Bankers Cheque of S.B.I., Kishanganj Dated 24.6.1999 and 25.6.1999, the petitioner no. 2 deposited Rs. 30,000/- through a Banker Cheque of Allahabad Bank Dated 22.5.1999, petitioner no. 3 deposited Rs. 47,500/- through Banker Cheque of UCO Bank Dated 26.5.1999 and petitioner no. 4 deposited Rs. 30,000/- through Bank Pay Order of Oriental Bank Of Commerce Dated 22.5.1999. The petitioners have brought on record Affidavits as well as photo copy of Cheques and Pay Order as Annexure – 1 Series to the writ petition. It appears from the pleading that after the deposit of the amount steps were taken to get the shops constructed, however, due to unavoidable circumstances same could not be constructed. A plea has been taken in the writ petition that some un-authorized persons had occupied the area and running some shops. It has been pleaded that despite the petitioners approached the authority concerned for allotment of the shops or alternatively, refund the amount, same has not been done till date. The petitioners have represented before the authority concerned particularly the District Magistrate, Kishanganj, with



the claim of refund of the deposited amount. From the writ petition itself it is evident that despite best effort shops could not be constructed. It is not in dispute that petitioners had deposited the aforesaid amount in the year 1999 itself and it is also a fact that till date neither any shop has been allotted nor the deposited amount has been refunded to the petitioners.

Since the petitioners have made alternative prayer for directing the Respondents to refund the deposited amount, the Court is of the opinion that for the ends of justice it is required to allow the writ petition to the extent of alternative prayer made by the petitioners. Accordingly, the writ petition stands allowed with a direction to the Respondents particularly the Respondent No. 3 / District Magistrate, Kishanganj –cum- Chairman, District Township Development Abhikaran, Kishanganj, to take all steps for refund of the deposited amount to the petitioners within a period of eight weeks from the date of receipt / production of a copy of this order. It goes without saying that since the petitioners have already deposited the aforesaid amount which is lying in the Government Treasury, the petitioners shall be entitled to claim interest on the aforesaid amount. The court considers that it would be appropriate to direct the Respondents to refund the deposited amount with simple interest of 9% which is to be calculated from

the date of deposit till the date of refund of the same to the petitioners.

With above observation the writ petition stands allowed.

(Rakesh Kumar, J)

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