

THE HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.39613 of 2014

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ORDER:

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Heard the learned counsel for the petitioner and Sri Deepak Bhattacharjee, learned counsel for the respondents.

The respondents filed counter-affidavit. The stand in the counter-affidavit hardly presents an issue for consideration by this Court. The relevant portion in the counter-affidavit reads as follows:

“Para 7: It is humbly submitted that the Chief Commissioner Land Administration instructed the District Collector to reconsider the request for giving NOC in favour of IOC. NOC was re-applied by IOC which the District Collector again rejected on 23.03.2004 on same grounds. The corporation will not be in a position to set up the retail outlet for the reasons stated above and also not feasible for not meeting guidelines, as the location has now come under the preview of National Highway Authority norms after the highway was converted into National Highway. Since NOC was rejected by the District Collector and also the site is not feasible, corporation is left with no other alternative other than vacating the site and terminate the lease deed. The lease was accordingly terminated from the date of lease itself as the lease deed was executed for the purpose of setting up the retail outlet and the purpose is defeated as the corporation will not be in a position to start the outlet for the reasons as stated above”.

From the above, it is clear on account of happening of an event or non-happening of an event, the respondents are treating that there is no subsisting lease between the petitioner and the respondents.

As the original lease was registered, to keep the petitioner free from any obligation,

the respondents are under obligation to cooperative with petitioner in the execution and registration of cancellation of the lease deed. The parties are given two weeks time to complete the process. If the petitioner approaches the respondents with a copy of the instant order, the respondents are directed to execute a deed, cancelling the registered lease deed, dated 18-12-2003.

The writ petition is disposed of as indicated above.

The miscellaneous petition filed in the writ petition shall also stand disposed of.

There shall be no order as to costs.

S.V. BHATT, J.

Dt.17-04-2015.

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