

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1433 of 2011

IN

Civil Writ Jurisdiction Case No. 3637 of 2010

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1. The State of Bihar

2. The District Collector, Gopalganj

.... Appellants

Versus

Smt.Manju Sinha, wife of Sri Anil Kumar Singh, at present residing at
Bank Road, Patna ,P.S. Gandhi Maidan, Distt. Patna.

.... Respondent

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Appearance :

For the Appellants : Mr. Devendra Kumar Sinha, AAG-2

Mr. Biresh Kumar Sinha, AC to AAG-2

For the Respondent : Mr. Jitendra Singh, Sr. Advocate

Mr. Harsh Singh, Advocate

Mr. Yash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 27-01-2016

The State is in Intra-Court Appeal from the judgment
of the learned Single Judge in C.W.J.C. No. 3637/2010 dated
14.05.2010.

Heard learned counsel for the parties, and with their
consent this appeal is being disposed of at this stage itself.

The writ petitioner had purchased certain lands which
were leased lands of M/s Hathua Vanaspati Limited (in Liquidation).
The purchase was through auction held by the learned Company
Judge and was sold, pursuant to steps taken in the winding up



proceedings in respect of the said Company. In respect of this land, the fact is that, the Company i.e. M/s Hathwa Vanaspati Limited, (in liquidation) had set up industrial unit making Vanaspati Ghee, Refined Oil and other allied products at Hathwa in the district of Gopalganj. For setting up the industry it had taken on lease, about 27.79 acres of land from the State of Bihar. The lease deed was executed on 18.09.1979 registered on 28.09.1979 by the Collector on behalf of the State of Bihar. It was a registered document wherein the lease was valid for a period of 30 years, and the lease deed also had a renewal clause. When the company court took up the auction, the writ petitioner paid Rs. 1.97 Crores as the price for part of this land admeasuring about 17.04 acres including also for plant and machinery. The Company Judge sold the said 17.04 acres to the writ petitioner which is recorded in order dated 01.11.2007 of the Court proceeding before the Company Judge. While dealing with the matter on 17.01.2008, the learned Company Judge observed that as per the original lease, the lease period was valid now only for a couple of years, and in view of the renewal clause therein, the auction purchaser i.e. the writ petitioner would have a right to seek renewal from the Government. Accordingly, having got the land registered, the writ petitioner applied for renewal as contemplated by the lease itself. The Collector of the District, far from proceeding to

recommend for renewal, by the impugned order dated 25.01.2010 cancelled the lease and directed resumption of possession. It is at that stage the writ petition was filed.

It may be relevant to note some facts from the writ proceeding. Noticing the attitude of the Collector, the learned Single Judge took a very strict view of the matter and asked for appearance of the Collector, as the Collector was unfairly proceeding against the letter and spirit of the order of the Company Judge of this court. The Collector of the District, it appears from the order-sheet, took a very strange stand. First, he took the stand that he had cancelled the lease because there were certain violations notwithstanding the land auctioned and purchased by the writ petitioner, and ignored those subsequent events. He raised another plea in the Court that, there were huge debts in regard to the lease rent, and that being so, the lease was being cancelled. He then took yet another strange plea. He challenged the very authenticity and genuineness of the lease deed. What was the basis of this is not known. The writ Court then asked the creditors to produce the original lease deed which was duly produced, but the Collector did not turn up, even to see the original lease deed. Noticing the strange behaviour of the Collector, the learned Single Judge made certain observations against the conduct of the then Collector, Gopalganj.



In the facts noted above, we are not inclined to interfere against those observations, especially when the person holding the office of the Collector against whom the remarks were passed had himself chosen not to appear nor any appeal was filed by the said Collector, in person.

The learned Single Judge noticing the orders as passed by the Company Judge and also noticing that the lease deed which was genuine and had a renewal clause, held, the action of the Collector in cancelling the lease and trying to take possession, being illegal, set aside the order of the Collector dated 25.01.2010. State is aggrieved.

We are unable to appreciate as to what the State is aggrieved by, because, the State does not seem to justify the action taken by the Collector nor the stand of the State is that it undertook the steps not to renew lease. The later could not be the stand in view of the professed industrialization, which is the government stand.

We must realize that we are living in a welfare democratically controlled society. It is not the whims and caprice of an officer that would determine what has to be done, what has not to be done. There was a lease deed. The lease deed had a renewal clause. The rights in respect of the lands covered by the lease deed were auctioned by the Company Judge of this Court. The writ



petitioner had purchased it. The Company Judge and the writ petitioner were aware that the term of the lease was to expire shortly. Company Judge clearly indicated that full consideration having been paid (about Rs. 1.97 Crores), it was open to the writ petitioner to apply for renewal which the government would consider, then, on any *ipse dixit* of a Collector to allow cancellation of the lease itself would be quite arbitrary. If the Collector was so sanguine about his right, the least which he could have done was, sought leave of the Company Judge of this court. He should have sought permission of the government to take such an action. He did nothing.

Thus, on the facts we are not inclined to interfere. This appeal is, accordingly, dismissed.

If the writ petitioner/respondent herein have already applied for renewal of the lease and the same has not yet been granted, the State would be well advised to proceed in the matter at the earliest without waiting any further.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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