

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3599 of 2011

M/s Mars Mountain Securities and Trade Pvt. Ltd. having its registered Office at 203 and 207, Hem Plaza, Frazer Road, Patna through its Director Sri Deo Prakash Singh son of Dr. Ram Prakash Singh, resident of 302, Savitri Apartment, A.N. Path, P.S. Sri Krishnapuri, Town and District- Patna.
..... Petitioner

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner, Department of industries, Bihar, Patna
2. The Director of Industries, Department of Industries, Bihar, Patna.
3. The Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna through its Managing Director.
4. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.

..... Respondents

Appearance :

For the Petitioner : Mr. Gautam Kejriwal,
Mr. Zahid Hussain, Advocates
For the State : Mr. Vivek Prasad, GP-7
Mr. S.K. Ojha, AC to GP-7
For the BIADA : Mr. Piyush Lal, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-10-2016

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing of the office order dated 30.05.2007 bearing memo no. 1547/D issued under the signature of the Managing Director, BIADA, informing about a policy decision taken by the Board of Directors on 25.05.2007 in connection with change of shareholding of allottee/firm prescribing different charges leviable on account of transfer of ownership of an



industrial plot, transfer of shares to the extent of 50% and above, etc.; for quashing the letter dated 16/17.06.2010 bearing memo no. 4063/D issued under the signatures of the respondent Executive Director, BIADA whereby the petitioner has been called upon to deposit a sum of Rs. 18,58,250/- by way of transfer and maintenance charges against the Plot No. NS-10, Phase-3, Fatuha Industrial Area, Patna purchased by the petitioner from the Official Liquidator, Patna High Court in the matter of M/s Sri Bahubali Cements Ltd. (In liquidation); for quashing of the letter dated 14.02.2011 bearing Ref. No. 607/D issued under the signature of the respondent Executive Engineer Director, BIADA, Patna whereby the petitioner has been directed and thereby restrained from proceeding further with the ongoing development work at the site of the aforesaid industrial plot until compliance of the letter dated 09.09.2010; and for connected reliefs.

3. At the outset itself, learned counsel for the petitioner states that the prayer with regard to quashing of the policy decision taken by the Board of Directors on 25.05.2007 is not pressed and the same is accordingly dismissed as not pressed.

4. With regard to the remaining reliefs sought, learned counsel for the parties are in agreement that the issues involved in the present writ petition are covered in view of a judgment passed by this Court on 16.09.2016 in Company Petition No. 08 of 1998 [M/s Gopal Jute Industries Private Limited (In Liquidation)], *inter alia*, wherein it

has been held as follows: —

“Thus on a consideration of the entire facts and circumstances and the various decisions of this Court and the Supreme Court and the law applicable on the point, it is evident that matters like the present one are covered by the decision of the Division Bench of this Court in the case of Vikramshila Transformers (supra) and where there is a valid mortgage in favour of the financial institution which does not require prior permission of BIADA as per the lease agreement, then upon such mortgage being enforced by sale by the Mortgagee along with the OL. in a winding up proceeding then the purchaser simply is placed into the shoes of the original lessee and no transfer fee shall be leviable in such circumstances”.

5. In the above view of the matter and with consent of the parties, the present writ petition stands disposed of in view of the said judgment dated 16.09.2016 passed in Company Petition No. 08 of 1998 [M/s Gopal Jute Industries Private Limited (In Liquidation)], along with consequential relief to the petitioner.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.10.2016
Transmission Date	N.A.