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IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1076 of 2016
IN
Civil Writ Jurisdiction Case No. 1681 of 2016

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1. Sanjiv Kumar, son of Jamuna Tiwary, Resident of village and P.O. Pakari, P.S. Mashrakh, District- Saran at Chapra.
2. Kishun Shah, son of Sri Sikil Sah, Resident of Mashrakh Station Road, P.O. and P.S. Mashrakh, District- Saran at Chapra.
3. Ladho Devi, wife of Dhaneshwar Bhagat, Resident of village- Mashrakh, Ward No.2, P.O. and P.S. Mashrakh, District- Saran at Chapra.

.... Petitioner/s

Versus

1. Zila Parishad Saran at Chapra through the Chairman District-Saran at Chapra.
2. The Chairman, Zila Parishad, Saran at Chapra, District- Saran at Chapra.
3. The Chief Executive Officer, Zila Parishad, Saran at Chapra, District- Saran at Chapra.
4. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
5. The District Magistrate, Saran at Chapra.
6. The Sub-divisional Officer, Marhoura, District- Saran at Chapra.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. S.B.K. Manglam
For the Respondent/s : Mr. Sanjeev Nikesh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 27-04-2016

This miscellaneous application has been filed by the three petitioners in CWJC No.1681 of 2016 seeking a modification in the order dated 3.3.2016 passed on the writ petition, a copy of which is placed at Annexure-1 to this application.

In the said case 28 petitioners had questioned the advertisement in relation to settlements of shops. A counter affidavit

was filed in which it was admitted by the Zila Parishad that 14 of the petitioners did comply with the formalities while 10 petitioners had merely deposited the earnest money, but the remaining 4 petitioners that is petitioner no.5, Sanjiv Kumar who is petitioner no.1 herein, petitioner no.8, Mani Madhukar, petitioner no.22, Kishun Shah who is petitioner no.2 herein and petitioner no.28 Ladho Devi who is petitioner no.3 have not deposited even the earnest money. The affidavit filed by the Zila Parishad was not questioned by the petitioner.

This Court taking note of the stand of the Zila Parishad on their admission and since 14 petitioners had deposited the earnest money as well as developmental cost, directed the Zila Parishad to complete the process of allotment.

In so far as the 10 petitioners who had only deposited the earnest money were concerned, the Zila Parishad was directed to treat these petitioners as fresh applicants.

In so far as the 4 remaining petitioners were concerned, since the Zila Parishad had stated that they had not made any deposit of even earnest money, this Court allowed them to apply afresh. Now of these 4 petitioners, 3 of them are before this Court seeking modification of the order passed on the writ petition *inter alia* on grounds that even these persons have made deposit of

earnest money but the receipts could not be placed on record. It is stated that the petitioner Ladho Devi, W/o Dhaneshwar has deposited an amount of Rs.5000 on 20.10.1995 vide Annexure-2/1. The father of petitioner no.1 Yamuna Tiwari, S/o Anmol Tiwari has deposited the earnest money on 20.10.1995 vide Annexure-3 and Annexure-3/1 is a receipt issued in the name of Kishun Shah who is the petitioner no.2 herein.

Mr. S.B.K. Manglam, learned counsel appearing for the petitioner with reference to these receipts submits that it is due to lack of communication at the time of disposal of the writ petition that these relevant facts could not be placed on record and which brings these petitioners in the category of fresh applicants as per the order of this Court. He thus submits that in view of the receipts present, the Zila Parishad be directed to treat these three petitioners as fresh applicants as in the case of the 10 writ petitioners who were granted similar relief in these circumstances.

Mr. Nikesh Kumar, learned counsel for the Zila Parishad, while objecting to the submissions of Mr. Manglam has submitted that the receipts would require a verification on their genuineness. He submits that although two of the receipts viz Annexure-2/1 and 3 are issued on 20.10.1995 but the receipt nos. are 845058 and 849292 which shows a gap of four thousand receipts approximately

which creates a doubt.

The objections raised by Mr. Nikesh in the circumstances discussed are worth a note but at the same time, in case the receipts relied upon by these petitioners are found genuine on its validity and the Chief Executive Officer, Zila Parishad is satisfied that the petitioner nos.2 and 3 and the father of the petitioner no.1 had indeed made earnest money deposit as against the previous advertisement then the Chief Executive Officer, Zila Parishad would be under obligation to consider these petitioners as fresh applicants against the advertisement in question as in the case of the 10 petitioners in the writ petition who were directed to be treated as such in view of their earlier deposit of earnest money.

The miscellaneous application is disposed of accordingly

(Jyoti Saran, J)

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