

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2099 of 2015

In
Civil Writ Jurisdiction Case No. 17530 of 2014

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1. Vishnu Kant Gupta son of Late Vaidyanath Prasad resident of Baluatal,
P.S.- Motihari Town, District- East Champaran.

.... Appellant

Versus

1. Anjani Enterprises (formerly known as Anjali Enterprises), a registered Partnership Firm having its place of business at Turning Point, Opposite Dada Saheb Jain Temple, Kalanala, Bhawnagar, Gujrat, through its constituted power of attorney holder, Rameshbhai Patel, son of Dayabhai Patel, Resident of Nari, P.O & P.S Bhavnagar, District- Bhavnagar.
2. The State of Bihar through Principal Secretary Department of Revenue and Land Reforms, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Department of Sugarcane, Government of Bihar, Vikash Bhawan, Patna.
4. The Principal Secretary, Department of Industries, Government of Bihar, Vikas Bhawan, Patna.
5. The District Magistrate, East Champaran, Motihari;
6. The Additional Collector, Land Ceiling, East Champaran at Motihari;
7. The Sub-Divisional Magistrate, Motihari, District- East Champaran;
8. The Circle Officer, Chakia, District- East Champaran;
9. The District Sub- Registrar, Department of Registration, East Champaran at Motihari.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Jitendra Singh, Senior Advocate
Mr. Mrigank Mauli
For the Respondent No.1: Mr. Y.V.Giri, Senior Advocate
For the Respondent State: Mr. Sunil Kumar Mandal, SC-24

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

11 28-03-2016 Heard Mr. Jitendra Singh, learned Senior Counsel for the

appellant, and Mr. Y.V.Giri, learned Senior Counsel for the

respondent No.1. Heard also Mr. Sunil Kumar Mandal, learned

Standing Counsel No.2, appearing for the State respondents.



Aggrieved by the order, dated 30.10.2015, passed in C.W.J.C. No. 17530 of 2014, by a learned Single Judge of this Court, directing that the operation of the order, dated 21.07.2014, passed by the Collector, East Champaran, Motihari, (Annexure-9 to the writ petition) shall remain stayed till 30.11.2015, which direction for stay has continued till date, this Letters Patent Appeal has been preferred by respondent No.9, who is the appellant herein.

The writ petitioner, who is respondent No.1 herein, had made an application, under Article 226 of the Constitution of India, seeking a direction of this Court for quashing of the order, dated 21.07.2014, passed in Land Ceiling Case No. 115 of 1982-83, whereby permission had been granted to respondent No.9, i.e., the appellant herein, to sell 9.65 acres of land and to utilize the same for the purpose of construction of Sugar Mill only, the ground of challenging being, *inter alia*, that the order, dated 21.07.2014 (Annexure-9) was contrary to the observations made in, and the directions given by the order, dated 18.12.2013, passed in C.W.J.C. No. 8039 of 2013, whereby it had been mandated that the sale proceed of the land, transferred in the name of respondent No.9, was to be utilized in the finance including cost of purchasing of the land and asset of the Company in accordance with the sale certificates issued by the Official Liquidator at Allahabad High

Court.

While making the order, dated 30.10.2015, aforementioned, the learned single Judge pointed out that upon hearing the learned counsel for the parties concerned, he was of the view that the issues, raised in the writ petition with respect to validity and correctness of the order, dated 21.07.2014, passed by the District Collector, East Champaran, Motihari, cannot be decided unless and until comprehensive counter affidavits are filed separately on behalf of the State of Bihar and its functionaries as also by the respondent No.9. Accordingly, adjournment was sought for by the State respondents to enable them to file counter affidavits. However, the learned single Judge, while directing the matter to be listed, on 30.11.2015, stayed the operation of the order, dated 21.07.2014, aforementioned till 30.11.2015.

When the matter came up, on 01.12.2015, the learned single Judge noted that though respondent No.9, i.e., the appellant herein, had filed his counter affidavit, no counter affidavit had been filed by the State respondents and, in the opinion of the learned single Judge, since a comprehensive counter affidavit was required from the end of the respondent Nos. 1 to 9 as had already been noticed in the order, dated 30.10.2015, the learned single Judge, on the request made on behalf of the State respondents, directed the matter to come up, on 07.01.2016, under the same



heading, and that the interim order, dated 30.10.2015, shall continue till 07.01.2016 making it, however, clear that if the order, dated 30.10.2015, aforementioned is not complied with, and the counter affidavit is not filed on behalf of respondent Nos. 1 to 8, within a period of two weeks, then, the District Collector, East Champaran, Motihari, shall remain physically present, in Court, on the date fixed, to explain as to why the order of this Court had not been complied with.

When the matter came up on 11.01.2016, counter affidavit had already been filed by the respondents and, thus, the pleadings were already complete.

It was, however, pointed out on behalf of respondent No.9, that as against the interim order, dated 30.10.2015, passed in the writ petition (C.W.J.C. No. 17530 of 2014), respondent No.9 had preferred the Letters Patent Appeal, namely, L.P.A. No. 2099 of 2015, raising preliminary objection regarding maintainability of the writ petition itself.

Learned Senior Counsel, appearing on behalf of respondent No.9, also pointed out that certain issues, raised in the appeal had also been raised in the writ petition, particularly with regard to the maintainability of the writ petition and, hence, the writ petition may be heard.

Learned single Judge, however, was of the opinion that



since the interim order, dated 30.10.2015, passed by this Court, is under challenge before the Division Bench, in L.P.A. No. 2099 of 2015, it will be proper that the writ petition be heard only after disposal of the abovementioned appeal. For the reasons so recorded, the learned single Judge directed that the interim order, 30.10.2015, shall stand extended thereafter till final disposal of the appeal.

We have heard Mr. Jitendra Singh, learned Senior Counsel, appearing on behalf of the appellant, who is respondent No.9 in the writ petition, and Mr. Y. V. Giri, learned Senior Counsel, appearing on behalf of respondent No.1, who is writ petitioner. We have heard also Mr. Sunil Kumar Mandal, learned SC 24, appearing for the State respondents.

While considering the pleadings in the writ petition and the materials on record, we do not find that the learned single Judge has acted contrary to law in keeping the writ petition pending, while continuing with the interim order till disposal of this appeal.

Confronted with the situation as indicated above, Mr. Jitendra Singh, learned Senior Counsel for the appellant, seeks permission to withdraw this Letters Patent Appeal with liberty to take recourse to appropriate provisions of law as may be permissible.

To the submissions so made, no objection has been raised on behalf of the respondents.

We make it further clear that we have expressed no opinion as regard the legality or correctness of the interim order, dated 30.10.2015, which has been continued from time to time and stand impugned in the appeal.

Having regard to the fact that the writ petition raises issues, which may delay the process of winding of the company, we request the learned single Judge to take up the writ petition for its final disposal, preferably, within a period of two weeks from today and dispose of the same at the earliest, preferably, within two weeks thereafter.

In view of the above and in the interest of justice, this Letters Patent Appeal is hereby disposed of as withdrawn with the liberty as has been sought for and the writ petition is directed to be listed before the learned single Judge on 31.03.2016.

(I.A. Ansari, ACJ)

(Anjana Mishra, J)

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