

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2162 of 2013

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Sidharth Pratap Son Of Late Vijay Kumar Chand Resident Of Maul Babu Hata,
Mohalla- Madhubani, Police Station- Khajanchi Hat, District- Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna
3. The Commissioner, Purnea Division, Purnea
4. The Collector, Purnea
5. The Additional Collector, Purnea
6. The Deputy Collector, Incharge-Khas Mahal, Purnea Collectorate, Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. GYANAND ROY

For the Respondent/s : Mr. NIVEDITA NIRVIKAR GP3

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 21-03-2017

Heard learned counsel for the petitioner as well as learned

AC to GA-VII appearing for the State.

2. Originally, the petitioner filed this writ petition for issuance of direction to the respondents to execute the lease deed in favour of the petitioner in respect of Bihar Government Khas Mahal land of Ward No. 11 (old), Municipal survey Khata No. 1, Municipal survey plot no. 115/ 621(Ka) (Kha) (Part), area 15 Kathas, i.e., 24 decimals and 7½ Karies, situated within the Purnea Municipality (now Purnea Municipal Corporation, Purnea), but during the pendency of



this writ petition, the petitioner filed I.A. No.8548 of 2016 seeking amendment in the relief portion of this writ petition on the ground that during pendency of this writ petition, the Additional Collector, Purenna, issued memo No.2152 dated 15.10.2016, asking the petitioner to withdraw his deposited amount of Rs.2,97,124/-. The aforesaid I.A. No.8548 of 2016 was allowed by this Court vide order dated 06.03.2017 and the amendment, as prayed for in the aforesaid I.A. No.8548 of 2016, was ordered to be treated as part of the pleadings of main writ petition.

3. Certain facts are admitted. It is an admitted position that originally, plot no.115/ 621(Ka) (Kha) (Part), was Khas Mahal land and the Government executed deed of lease in favour of one Narendra Nath Ghosh on 23.08.1938, who came in possession over the aforesaid land. Subsequently, the great grand father of the petitioner, namely, Vir Narayan Chand, purchased the aforesaid land from Narendra Nath Ghosh through registered sale deed dated 24.07.1947 and, accordingly, he came in possession over the aforesaid land. However, after the death of above stated Vir Narayan Chand, the father of the petitioner applied for renewal of the lease in his favour but, unfortunately, before renewal of the lease, the father of the petitioner died on 24.11.1998 and, thereafter, the petitioner applied for renewal of lease in his favour but his prayer for renewal of lease in his



favour was turned down and on the basis of letter no. 644 dated 15.04.1999 issued by the Commissioner and Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna, a proposal was given to the petitioner that if he is interested to enter into new lease on new terms and conditions, he may give his consent. Thereafter, the petitioner, immediately, gave his consent and, thereafter, the petitioner was asked by the competent authority to deposit Rs.2, 97, 123.75/- as salami amount in Purnea treasury within two weeks. Thereafter, petitioner deposited the aforesaid amount immediately in the year 2002 but even after depositing the aforesaid amount, no deed of lease was executed by the competent authority in favour of the petitioner though he made several representations before the competent authority and, thereafter, petitioner filed present writ petition .

5. It is pertinent to note here that prior to making the proposal for fresh lease, the State of Bihar had filed Title suit no.40 of 1982 against the great grand father of the petitioner for seeking relief of his eviction from the plot in question but the aforesaid suit was dismissed in default some time back in the year 1988 and, thereafter, the State of Bihar filed restoration which was too dismissed. The State of Bihar did not carry the aforesaid matter ahead and left the aforesaid matter.



6. It is also pertinent to note here that the competent authority, Purnea made a proposal for execution of lease deed in favour of other persons during the pendency of this writ petition but the aforesaid proposal of the competent authority of the Khas Mahal was turned down by the Collector, Purnea.

7. The State has filed counter affidavit almost admitting the entire pleadings of the petitioner but the State has taken stand to this effect that the plot in question is needed to the State Government for construction of official buildings and that is the reason, the State has decided not to execute lease deed in respect of aforesaid land in favour of the petitioner. It is further stand of the State that the status of the petitioner upon the land in question is an encroacher and, therefore, he cannot compel the State to execute the lease deed in his favour.

8. It is an admitted position that the ancestors of the petitioner came in possession over the aforesaid land in the year 1947 though the original lessee had no right to transfer the land in question in favour of the great grand father of the petitioner and the status of ancestors of the petitioner on the land in question was amounting to trespasser. However, the State Government framed guidelines vide letter no.644 dated 15.04.1999. Para-8(kha) of the aforesaid letter goes to show that if the original lessee has transferred the lease



property and transferee is in possession over the property, the status of the transferee could be amounted to trespassers but in the aforesaid guidelines, the State Government decided to ask from the land holders, who are in possession, to take a fresh lease on new terms and conditions and if the aforesaid land holders are agreed to the proposal of State Government, the lease shall be executed in their favour but if they are disagreed with the proposal of State Government, the State Government may file civil suit for eviction of the aforesaid encroachers.

9. In the present case, admittedly, the State Government had filed civil suit for eviction of great grand father of the petitioner from the land in question treating him as encroacher but the State Government failed in his attempt as the aforesaid suit was dismissed for default. Moreover, in the present case, a proposal for execution of new lease deed was given to the petitioner, who agreed for that, and accordingly, as per direction of competent authority, he deposited salami amount in the treasury concerned but, even then, the lease deed has not been executed in his favour rather after depositing the amount by the petitioner, the competent authority started saying that the land in question is needed for construction of government buildings. However, there is nothing on the record to show that there is any proposal for construction of official buildings over the land in



government and it is only an assertion of the officials of the Government that the aforesaid land is needed for construction of government buildings.

10. On the basis of aforesaid discussions, I am of the opinion that the respondents are duty bound to follow the guidelines as framed by the government itself vide letter no.644 dated 15.04.1999 (Annexure-8 to the reply of the petitioner to the counter affidavit filed on behalf of the respondent nos.2 to 6)) and the State Government has no option except to execute fresh lease deed in favour of the petitioner.

11. Accordingly, this writ petition stands allowed and the respondents, particularly, respondent no.4, the Collector, Purnea, is directed to execute lease deed in favour of the petitioner in accordance with the rules within three months from the date of receipt/ production of a copy of this order. Furthermore, Memo No. 2152 dated 15.10.2016 issued by Additional Collector, Purnea, is hereby quashed.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.04.2017
Transmission Date	06.04.2017

