IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1525 of 2012
IN
Civil Writ Jurisdiction Case No. 4164 of 2012

==

1. The State Of Bihar
2. The Principal Secretary Department Of Industries, Govt. Of Bihar, Patna
3. The Principal Secretary, Department Of Cane & Sugar, Govt. Of Bihar, Patna
4. The Principal Secretary Department Of Energy, Govt. Of Bihar, Patna
5. The Collector, East Champaran At Motihari
6. The Additional Collector, Land Ceiling, East Champaran, At Motihari
7. The Sub Divisional Magistrate, Motihari
8. The Circle Officer, Chakia, East Champaran

.... Appellant/s

Versus

1. M/S Vaidyanath Sugar Mills Private Limited, Through Its Chairman Vishnu Kant Gupta S/O Late Vaidyanath Prasad R/O Baluatal, P.S.- Motihari Town, District- East Champaran
2. Vishnu Kant Gupta S/O Late Vaidyanath Prasad R/O Baluatal, P.S. Motihari Town, District- East Champaran

.... Respondent/s

==

Appearance :

For the Appellants : Mr. Pushkar Narain Shahi, AAG-6
Mr. Sajid Salim Khan, S.C.25
Mr. Wasi Ahmed Khan, AC to SC-25
Mr. Shivam, Advocate

For the Respondents : Mr. Sanjay Singh, Advocate
Mr. Praveen Kumar, Advocate
Mr. Umakant Prasad

For Intervener Appellants: Mr. Vishwajeet Kumar Mishra, Advocate

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 09-01-2018

Having heard learned counsel for the parties at length, we find that the impugned order passed by the learned Single Judge on 18.5.2012 in C.W.J.C. No.4164 of 2012, to the extent it makes applicable a Circular of the Income Tax Department dated 16.1.1994 to say that the factory of the respondent falls within a radius of 8 k.m’s. from an urban area and, therefore, the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 will not be applicable, is not correct and is not a correct finding.

For the purpose of determining an area which would fall under the Act of 1961, a Circular in the matter of determination of Income Tax liability under the notification dated 6.1.1994 defining an ‘urban area’ and a ‘rural area’ cannot be taken aid of and, therefore, to that extent, the appeal of the State Government has to be allowed and we hold that the notification dated 6.1.1994, issued by the Government of India, in the Department of Finance only pertains to assessment under the Income Tax Act and will not apply to a proceeding under the Act of 1961. To that effect, the appeal stands allowed and disposed of.

However, having said so, the option available to this Bench was to remand the matter back to the learned Single Judge, but having heard learned counsel for the parties and on considering the provisions of the Bihar Land Ceiling Act, 1961, as amended by Act 55 of 1982 and the provisions of Section 32A read with Section 32B, we find that the orders passed by the competent authorities under the Act of 1961 after coming into force of the Act 55 of 1982 is a ‘nullity’ in the eye of law as the entire proceedings initiated under Section 10 of the Act of 1961 stood abated after 1982 once the provisions of Sections 32A and 32B came into force by virtue of Act 55 of 1982.

Accordingly, the impugned orders that where challenged in the writ petition i.e. the order dated 4.2.2012, passed by the Collector and the earlier order passed by the Additional Collector dated 12.7.2011 were passed in a proceeding which stood abated by virtue of Section 32A of the Act and, therefore, the writ petition filed by the petitioner has to be allowed on this count.

Accordingly, we hold that the order dated 4.2.2012 passed by the Collector, East Champaran at Motihari and the earlier orders passed by the Additional Collector, East Champaran at Motihari on 12.7.2011 and the order passed in the year 1986 by the Ceiling Authority in a proceeding under Section 10 stood abated by virtue of the provisions of Section 32A of the Act of 1961 and, therefore, all these orders are quashed. However, having held so, if permissible by virtue of Section 32B, the State Government, the competent authority may take action, if permissible under law, by resorting to provisions of Section 10 in the light of the liberty available to them under Section 32B of the amended provisions.

With the aforesaid, the appeal stands disposed of and the writ petition of the petitioner allowed on the grounds as are indicated hereinabove.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11-01-2018
Transmission Date	