

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.286 of 2019

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Sarvashree Babu Ice Factory through its proprietor Pankaj Kumar Nirala, son of Sri Ramchandra Rajak, Resident of 5 M.H. 46, Housing Board, Barari, P.S.- Barari, District-Bhagalpur Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Department of Industry, Government of Bihar, Patna
2. The Managing Director, Bihar Industrial Area Development Authority, Udhyog Bhawan, East Gandhi Maidan, Patna-4
3. The Secretary, Bihar Industrial Area Development Authority, Udhyog Bhawan, East Gandhi Maidan, Patna-4
4. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Large Industrial Are, Barari, Bhagalpur

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar, Advocate
For the Respondent/s	:	Mr. Rakesh Ambastta, AC to AAG -7
For BIADA	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Niraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-02-2019 Heard learned counsel for the parties.

A counter affidavit has been served upon learned counsel for the petitioner today. However, on his prayer the matter has been taken up for final disposal.

Learned counsel for the petitioner submits that the issue involved in the present case is limited to payment of the transfer fee to Bihar Industrial Area Development Authority (in short 'BIADA') which was originally standing at Rs. 7,62,384/- in the year 2015 but by efflux of time now BIADA has been claiming a sum of Rs. 10,04,392/-. The amount has been



disclosed by BIADA in its counter affidavit in paragraph 24. Learned counsel submits that while he is agreeing to pay the said amount, a prayer is being made to direct the respondents to consider accepting the payments in few installments.

Learned counsel submits that in fact as the petitioner failed to deposit the transfer fee, BIADA had already cancelled the transfer and in this process the petitioner had to take recourse to the present proceeding and had to spend money in contesting the matter which has made it more difficult for him to make entire payments in one go.

It is submitted that the appellate authority while passing the impugned order has no doubt considered the case of the petitioner but directed him to pay the entire amount with interest immediately in one lump sum within a period of 15 days from the date of the order. This, according to the petitioner, is onerous condition as the petitioner cannot arrange for the entire money within a short period.

On the other hand, Mr. Kumar Priya Ranjan, learned counsel representing BIADA submits that BIADA is interested in getting the amount at the earliest opportunity and is also looking for utilisation of the plot for industrial purpose. Learned counsel submits that on earlier occasion while the petitioner has



made promises but he failed to fulfill the same. He is sitting over a prime industrial plot of 4400 sq. feet.

Mr. Kumar Priya Ranjan has, according to this Court, made a reasonable offer calling upon the petitioner to deposit at least 50 % of the entire dues within a period of one month from today and then the rest amount may be paid within two installments at an interval of three months.

In the given facts and circumstances of the case, this Court is of the considered opinion that the offer of BIADA is a reasonable one. If the petitioner deposits 50 % of the entire outstanding amount as stated in the counter affidavit within a period of one month from today, the same shall be accepted by BIADA giving an opportunity to the petitioner to deposit the balance amount in two equal installments at the interval of three months each. It is made clear that failure of the petitioner to deposit the aforesaid amount would result in consequential action by BIADA and BIADA would be fully entitled to proceed with action for taking over possession of the industrial plot.

Considering the fact that the amount was made known to the petitioner in the year 2015 itself and the petitioner has failed to pay the amount so far, this Court also makes it clear that now onwards no further opportunity will be given to the



petitioner if he fails to pay the amount in the aforesaid manner
as he cannot continue to occupy the industrial plot without
utilisation.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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