

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14167 of 2010

M/s Ballav Saw Mills, S/O Late Braj Ballav Prasad, One of Legal Representatives Being Authorized By All The Legal Heirs Of Late Brij Ballav Singh, R/O Vill.- Budhu Chak, P.O. and P.S.- Fatuha, Distt.- Patna

... .. Petitioner/s

Versus

1. Bihar State Financial Corporation through Managing Director, Frazer Road, Patna
2. Branch Manager, Bihar State Financial Corporation Patliputra East Branch, Nasherman Building, Dak Bungalow Road, Patna
3. Bihar Industrial Area Development Authority Through Managing Director First Floor, Udyog Bhawan, East Gandhi Maidan, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Jha, Advocate Mr. Jitendra Narayan, Advocate
For the Respondent/s	:	Mr. Amit Narayan, Advocate Mr. Lalit Kishore, AG Mr. Raj Nandan Prasad, Advocate Mr. Rakesh Kumar, Advocate Mr. Pankaj Kumar Sinha, Advocate Mr. Devesh Shankaran, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-08-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- (a) For quashing the order dt. 10.6.2010 by which the Managing Director of BSFC i.e. respondent no.1 approved the redemption of mortgage of the petitioner's units in favour of BIADA on payment of Rs. 6.42 lacs as the redemption is void-ab-initio and having no legal consequences and not binding on the petitioner.



(b) For a direction to respondent authorities to offer the level playing field to the petitioner by directing the respondent no.1 to give an opportunity to the petitioner to redeem the mortgage property on payment of Rs. 6.42 lacs on the same terms and conditions as offered to BIADA.

(c) For a direction to respondent Authorities to follow the law declared by this Hon'ble Court in the case of Deepak Paints (P) Ltd. and others by Judgement dt. 17.3.2008.

(d) For any other appropriate relief/reliefs for which petitioner is found to be entitled in the facts and circumstances of the present case.

On 25.08.2022, we had passed the following order:-

“ Order dated 17.08.2022 passed in the instant petition is modified permitting the petitioner to file the undertaking in its proper form within next three working days.

If the undertaking is not filed within the stipulated period, the petition shall be deemed to be dismissed for default and not listed before the Court.

If the undertaking is filed, matter be listed on 31st of August, 2022.”

Petitioner has filed fresh undertaking being part of supplementary affidavit dated 25.08.2022 in the following terms:



9. That the petitioner has prayed before this Hon'ble Court that kindly directed to the respondent BIADA for disclosed its outstanding dues over the petitioner before this court.
10. That again the petitioner undertakes which are as follow:-
 - (a) That the petitioner shall make the unit fully operational and functional, for the category for which the land stood allotted within the period of six months.
 - (b) That the petitioner also comply with all statutory provisions, including the labour laws.
 - (c) That the petitioner shall clear all the dues payable to BIADA as on date.
 - (d) That in the event of failure on the part of the petitioner to comply with the undertaking, petitioner shall hand over the vacant peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when the petitioner shall loose all rights therein.
 - (e) That petitioner also be liable for imitation of proceedings for contempt for having violated the undertaking furnished to the Court.



11. That the petitioner undertakes abide by any further condition laid by the Hon'ble Court for betterment of future of the unit and / or industrial development of the State of Bihar.

The ambiguity in paragraph number 9 of the affidavit stands clarified by the petitioner who is ready and willing to pay the entire dues paid by BIADA to BSFC.

In view of the aforesaid, petitioner's undertaking is accepted and taken on record.

BIADA has no objection to the order being passed, as is so being passed in similarly situated cases to augment the industrial growth within the State of Bihar.

Petitioner's undertaking that he would revive the unit within six months and make it fully operational and functional, is accepted and taken on record.

Consequence of breach thereof stands explained through the learned counsel.

This Court would not hesitate to not only initiate proceedings of contempt for violating such an undertaking, but also direct the BIADA to take over the possession of the property for allotment to a third party in accordance with law.



Present petition stands disposed of in the
aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	01.09.2022
Transmission Date	

