

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1547 of 2023

In
Civil Writ Jurisdiction Case No.12237 of 2019

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M/s Yasraj Cycle Rickshaw Udyog, Industrial Area, Donar Darbhanga through its Proprietor Smt. Neetu Gupta, aged about 40 years, (Female), Wife of Subhash Gupta, Resident of Mohalla- Alallapatti, P.S. Bela, District-Darbhangha.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Industrial Department, Patna.
2. The Principal Secretary, Department of Industries, Patna.
3. The Bihar Industrial Area Development Authority, through its Managing Director, Udyog Bhawan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Patna.
5. The Executive Director, Bihar Industrial Development Authority, Udyog Bhawan, Patna.
6. The Assistant Development Officer, Bihar Industrial Development Authority Regional Office, Darbhanga.
7. The Regional Incharge, BIDA, Regional Office, Dinar, Darbhanga.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Saroj Kumar, Advocate
For the Opposite Party/s :	Mr. Lalit Kishore, Sr. Advocate
	Mr. Piyush Lall, Advocate
	Mr. Abbas Haider, SC-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-09-2023

The above application is one filed for extension of time for a further period of six months; which runs contrary to the undertaking of the petitioner before this Court, based on which alone the writ petition was disposed of.



2. The petitioner was aggrieved with the cancellation of allotment of land bearing Block No. A-26(P) area 3000 sq ft. allotted to the petitioner vide letter no. 1438 dated 13.08.2011, for establishment of fabrication and assembling of Cycle Rickshaw industries within the industrial area, Donar, Darbhanga. The petitioner sought for restoration of the allotment and acceptance of the bank guarantee of Rs. One lakh as also the arrears of Rs. 24,112/-challenging the order dated 13.12.2018 passed in Appeal Case No. 18 of 2018, the writ petition was filed in the year 2019. In 2022, when the matter was heard finally despite the submission of the respondent Bihar Industrial Area Development Authority (for brevity, 'BIADA') that there are 3rd party rights created, this Court directed the petitioner to file an undertaking on affidavit, *inter-alia* undertaking commercial production within sixty days and the unit being made fully operational and functional within six months.

3. The petitioner filed an undertaking based on the order dated 12.08.2022, which is seen extracted in the judgment in the writ petition. The petitioner undertook to start commercial production within sixty days from handing over the possession of the premises after removing the seal, to make the unit fully



operational and functional within six months, clear all dues payable to BIADA, make itself compliant to statutory requirements, including those for the welfare of the employees; failing which it was also undertaken that vacant and peaceful possession of the premises would be handed over to the BIADA. It was also accepted that if the undertaking is not complied with, there would be initiation of proceedings for contempt. It is only on the basis of this undertaking that the petitioner was re-allotted the property.

4. The order was passed on 01.11.2022, and the petitioner in the present application admits that vacant possession of the land was handed over after about a month. The petitioner now claims for a further period of six months, that too without even an averment as to the commencement of the commercial production within sixty days, as undertaken by the petitioner. In fact, it has to be specifically emphasized that this Court while disposing of the writ petition had categorically observed that the petitioner is made aware of the consequences of breach of undertaking, including initiation of proceedings for contempt.

5. We find no reason to interfere with the order passed and grant any modification as sought for. The petitioner



while making the undertaking should have taken stock of the circumstances and cannot now plead inability on any count to comply with the undertaking. We reiterate at the risk of repetition that the petitioner was even threatened with contempt proceedings, if the undertaking was not complied with. This is significant especially in the context of the BIADA having stated at the first instance that 3rd party rights were created. It is even ignoring such 3rd party rights that indulgence was shown to the petitioner based on the specific undertaking made.

6. We reject the Miscellaneous Jurisdiction Case and make it clear that the BIADA would be entitled to take possession of the premises without anything further; failing vacation of which premise the petitioner would be liable under the Contempt of Courts Act, for violation of clear undertaking made before this Court.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	
Uploading Date	06.09.2023
Transmission Date	

