IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3560 of 2020

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M/s Om Shri Laxminarayan Education Foundation Ltd. Office at 401, Ashiana Chamber, Exhibition Road, Patna through its Director, Badri Mittal @ Badri Kumar Mittal, Male aged about 52 years, S/o Late Pawan Kumar Mittal, G-2/A, Pusp Vihar Colony, Exhibition Road, P.s.- Gandhi Maidan, Patna-800001

... ... Petitioner/s

Versus

1. Bihar Industrial Area Development Authority First Floor, Udyog Bhawan, East Gandhi Maidan, Patna through Managing Director
2. Executive Director, Bihar Industrial Area Development Authority, Patna
3. Deputy General Manager, State Bank of India, Stressed Assets Management Branch, 2nd Floor, Patna Main Branch Building, West Gandhi Maidan, Patna
4. Government of India, Recovery Officer, Debt Recovery Tribunal, Wings A and B, 5th Floor, Karpuri Thakur Sadan, GPOA, Near Rajeev Nagar, P.s.- Ashiana Digha Road, Patna-800025

... ... Respondent/s

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Appearance :

For the Petitioner	: Mr. Arbind Kumar Jha, Advocate
For the BIADA	: M/s Lalit Kishor, Sr. Advocate Ajeet Kumar, Advocate
For the SBI	Mr. Prabhat Kumar Sharan, Advocate Mr. A.K. Sharan, Advocate Mr. N.K. Sharan, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 06-09-2024

1. The Writ petition is filed for quashing the letter dated 25.01.2020 and declare the same void by which respondent no.2, Executive Director, Bihar Industrial Area Development Authority forfeited the transfer and development charges of Rs. 52,99,146/- deposited by the petitioner in pursuance of the demand raised by the respondent BIADA by its

letters dated 26.06.2018 and 18.02.2019 and interfered with the absolute right of the petitioner created by Debt Recovery Tribunal, Patna by confirming the sale by order dated 25.11.2009, which is appealable before Debt Recovery Tribunal under section 30 of the Recovery of Debt and Bankruptcy Act, 1993. Further for a direction to respondent authorities to complete the formalities of transfer of land and building and approve the project of the petitioner submitted before BIADA by it's letter dated 11.02.2016.

2. The brief facts of the case is that the petitioner participated in the public auction on 13.10.2009 and deposited the bid amount of Rs. 1,68,25,001 and since no application is being filed by any person under Rules, 60, 61 and 62 of the Second Schedule to the Income Tax Act, 1961 read with Section 29 of the DRT Act, sale was confirmed under Rule 63(1) of the IInd Schedule. Accordingly, Sale become absolute and sale certificate was issued and Recovery Officer directed the State Bank of India to hand over the possession of the mortgage property. Consequently, the Deputy General Manager, SBI, forwarded the order sheet dated 25.11.2009 to the Secretary, BIADA with a cheque of Rs. 1,74,493/- and requested to deliver peaceful possession of the property to the petitioner.

BIADA accepted the cheque of Rs. 1,74,493/-. After possession of auctioned property, petitioner by its letter dated 11.02.2016 put a proposal for setting up I.T. Park and requested for approval of project. The Respondent instead of granting approval of aforesaid project, issued a notice dated 26.06.2018 to pay transfer charge of Rs. 27,73,802 for transfer of aforesaid unit along with outstanding dues of Rs. 93,381/-, however, in reply of letter of BIADA for deposit of aforesaid amount, petitioner has informed the Executive Director, BIADA that transfer charge and dues is being deposited and seek approval of project. Again an additional demand of Rs. 24,31,963/- was raised by the respondent BIADA. However, the petitioner informed the BIADA that additional amount has already been paid by him. After receipt of entire transfer charge and other charges, a show cause notice was issued by respondent BIADA that document relating to transfer of land has not been furnished by you hence a notice is being issued to why transfer charge be not forfeited. In reply of show cause, the petitioner requested the BIADA to give details of documents required by BIADA for completing the transfer especially when transfer charge with interest has already been deposited as per demand raised by you. However, without demanding specific documents required for transfer of land a letter was issued by Executive Director forfeiting the transfer charges deposited by the petitioner and nullifying the sale conducted by DRT, Patna through order of the Recovery Officer.

3. While hearing a batch of cases including this Writ petition, a Division Bench of this Court Vide order dated 19.05.2022 had directed the parties to maintain status quo as on date.

4. Without going into the merits of the case, this order is being passed.

5. The entire dispute between the petitioner and the respondent - BIADA is that the petitioner, has to pay amounts to the BIADA. Pending Writ proceedings the petitioner has paid the entire amount, as demanded from time to time by the BIADA. Inspite of it, the respondent BIADA has taken physical possession of the land/ property in question.

6. Pending Writ petition the respondent BIADA has came out with letter dated 23.12.2023 with direction to the petitioner to hand over physical possession of the property in question.

7. At this juncture, the Learned counsel for the respondent BIADA submitted that the petitioner may approach

by filing representation before the BIADA with all relevant documents for his redressal of his grievance.

8. In view of the facts and circumstances stated above, petitioner is directed to approach the respondent BIADA within 15 days from the date of disposal of this writ application with all relevant documents for which the petitioner intends to start the Unit in question, further the respondent Managing Director, BIADA , after examining the documents and proposal submitted by the petitioner, shall consider the proposals and restore the possession of the land in question to the petitioner within two months from the date of filing of the representation.

9. With the aforesaid observations, this writ petition stands disposed of.

10. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2024
Transmission Date	NA