

(2017) 01 JH CK 0131
In the Jharkhand High Court
Case No : 6224 of 2016

Amarjeet Kumar Thakur? @ Bokan Vs The State of Jharkhand

Date of Decision : 16-01-2017

Acts Referred:

Citation : (2017) 01 JH CK 0131

Hon'ble Judges : Aparesh Kumar Singh

Bench : SINGLE BENCH

Advocate : Anil Kr. Sinha, ?Amar Kr. Sinha, ?Vikash Kishore Prasad

Final Decision : Disposed

Judgement

1. Heard counsel for the petitioner and the State.
2. On 21.11.2016 when the matter was taken up for the first time, following order was passed.

"Petitioner has a valid Khas Mahal lease till May 2019 as per the indenture of lease dated 3rd July, 1990. On the application of the petitioner, showing intention to transfer whole of the lease land to the purchaser and for seeking permission from the competent authority, the respondent no.5 - Khas Mahal Officer, Medininagar by the impugned letter at Annexure-4 dated 6th October, 2016 has directed her to deposit an amount of Rs.27,26,500/- as Salami which being 50% of the market value of the land. The petitioner has assailed it on the ground that it is contrary to the terms and conditions of the lease deed which clearly prescribes that any such transfer can be affected on previous sanction of the Deputy Commissioner in writing and on payment of fee equal to 25% of the yearly rental. It is submitted that instant conditions are part of Form-16 under the Khas Mahal Manual prescribed specifically for the District of Daltonganj. Petitioner, being an old lady, has been put to such onerous burden when she requires consideration amount for transfer of the leasehold land for her treatment. Therefore, she has approached this Court. Learned counsel for the State prays for and is allowed two weeks" time to obtain instructions in the matter positively. It would be open to the petitioner to approach the Deputy

Commissioner, Daltonganj and offer an equivalent amount by way of bank guarantee without prejudice to her rights for seeking permission to execute the transfer in favour of the purchaser. The Deputy Commissioner, Daltonganj may consider the request in accordance with law within the same time. List the case accordingly under the same heading in the week of 12th December, 2016."

3. Respondent State have through their counter affidavit filed thereafter on 09.12.2016, defended their decision based upon the Circular dated 11.03.1993

(Annexure-A).

4. The computation of the Salami amount of Rs. 27,26,500/-, as demanded by the impugned Annexure-4 dated 06.10.2016 has also been enclosed vide Annexure-

B to the counter affidavit. However, petitioner has brought on record the latest Resolution of the Department of Revenue, Registration and Land Reforms, Government of Jharkhand bearing memo no. 44 dated 03.01.2017 on the subject of

policy declaration on settlement of lease / renewal of lease and Salami and lease rent

to be levied thereupon. Para-4(ga) of the instant Resolution which deals with the issue involved in the present matter, is quoted hereunder:

VERNACULAR MATTER OMITTED

5. Learned Senior counsel for the petitioner submits that the Respondents are now obliged to take a decision and grant permission to execute the Deed of Transfer

of Lease to the petitioner / vendee in terms of the conditions incorporated therein by

fixing the lease rent @20% of the value of the land or consideration for such transfer, whichever is higher. Petitioner is in urgent need of money for her treatment

and is therefore not insisting upon specific terms and conditions of the Lease Deed.

6. Learned counsel for the State submits that the issue involved herein, is required to be decided in terms of the policy Resolution of the State on the subject

which has now come into effect i.e. Resolution dated 03.01.2017.

7. Considered the submissions of the parties in the light of the aforesaid canvass of facts and issue addressed. It is now clear from the latest Resolution of the State

Government, Department of Revenue, Registration and Land Reforms dated 03.01.2017 that any decision in relation to the transfer of subsisting lease is to be taken, as per the condition incorporated therein including para-4(ga), quoted herein-

above. Respondents are therefore required to take a fresh decision in the matter without being inhibited by the impugned communication at Annexure-4 dated 06.10.2016. Respondent should therefore take a decision afresh, in accordance with

law, within a reasonable time, preferably within a period of six weeks from the date

of receipt of a copy of this order. Writ petition stands disposed of accordingly. I.A.

No. 7403/2016 also stands disposed of.