
(2008) 02 PAT CK 0147
In the Patna High Court
Case No : LPA No. 979 of 2007

Hardinge Memorial Fund Trust		APPELLANT
	Vs	
The State of Bihar and Others		RESPONDENT

Date of Decision : 20-02-2008

Acts Referred:

Citation : (2009) PLJR 323 Supp : (2008) 1 PLJR 323

Hon'ble Judges : J.N. Singh, J;Chandramauli Kr. Prasad, J

Bench : Division Bench

Advocate : Abhinav Shrivastva, for the Appellant; Lalit Kishore, Satyabir Bharti for the State and Mr. Shambhu Sharan Singh for Respondents No. 7 to 10, for the Respondent

Final Decision : Dismissed

Judgement

Re: I.A. No. 424 of 2008

1. This application has been filed by the interveners for being added as respondents in this appeal. It is common ground that they had filed an application for intervention in the writ application and said application was allowed and they were made respondents in the writ application.
2. Mr. Abhinav Shrivastava appearing for the appellant states that inadvertently they have not been made respondents in this appeal.
3. In view of the aforesaid, the application is allowed and the persons mentioned in the said application are directed to be impleaded as respondent Nos. 7 to 10.
4. Learned counsel for the appellant prays to do the same during the course of the day.
5. Let him do so.
6. Now, we take up the appeal on merit.
7. The writ petitioner-appellant aggrieved by the order dated 20th July, 2007

passed by a learned single Judge in C.W.J.C. No. 15445 of 2005 Reported in Hardinge Memorial Fund Trust Vs. The State of Bihar and Others declining the relief prayed for, has preferred this appeal under Clause-X of the Letters Patent.

8. The writ petitioner-appellant Hardinge Memorial Fund Trust, hereinafter referred to as the Trust", had filed the writ application inter alia praying for quashing of the order of the Collector dated 7.10.2005, whereby it had directed for resumption of 22.82 acres of land and the consequential letter dated 14.10.2005 issued by the Anchal Adhikari directing the Trust to handover the possession thereof. Writ petitioner's further prayer was not to disturb its possession and in case it is found dispossessed from any part of 22.82 acres of land, to restore its possession.

9. Grant was made for establishing a public park in the town of Patna to commemorate the visit of Viceroy Lord Hardinge.

10. Learned single Judge on appraisal of the materials came to the conclusion that from the deed of grant dated 8.9.1915 the propriety right remained with the Government and neither the Committee nor the Trust had right to sublet, transfer, encumber or grant lease right or any permission to anyone else without written permission of the Collector.

11. Alleging breach of the terms of the grant, show cause notice was given to the Trust detailing several violations.

12. Learned single Judge elaborately dealt with those violations and ultimately came to the conclusion that "the purpose for which the grant was made, have been frustrated by open violation of the conditions of the grant and by putting big portions of the said land to commercial use. In view of the aforesaid finding, learned single Judge found no illegality in the order directing for resumption of the land.

13. Mr. Abhinav Shrivastava, appearing on behalf of the Trust, submits that in the face of the allegation a detailed enquiry ought to have been held and the order of resumption ought not to have been passed in a slipshod manner.

14. Learned Additional Advocate General No. 3, however, contends that the appellant was given a show cause notice which was replied by it and after a detailed discussion the authority came to the conclusion that the conditions of grant have been breached with impunity.

15. Having appreciated the rival submissions, we do not find any substance in the submission of Mr. Shrivastava. It is not in controversy that for resumption of the tend, Trust was given a show cause notice to which it replied. The plea taken by it was examined by the authority and thereafter the impugned order was passed. Learned single Judge had gone into this aspect in detail and found blatant violation of the purposes for which the grant was made. Thereafter, he had given further directions.

16. We are of the opinion that the order impugned does not suffer from any error and accordingly no interference is called for in the present appeal. Appeal stands dismissed.