

(2016) 02 JH CK 0038
In the Jharkhand High Court
Case No : W.P. (C) No. 7614 of 2013

Kamladitya Construction Private Ltd.

APPELLANT

Vs

Steel Authority of India Ltd. and Others

RESPONDENT

Date of Decision : 05-02-2016

Acts Referred:

Citation : (2016) 163 AIC 298 : (2016) 1 AIRJharR 809 : (2016) 2 JCR 387 : (2017) 1 JLJR 496

Hon'ble Judges : Rakesh Ranjan Prasad, J.

Bench : Single Bench

Advocate : Anil Kr. Sinha, Sr. Adv. and A.K. Sahani, for the Appellant; G.M. Mishra and Umesh Mishra, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Ranjan Prasad, J.—1. A proposal was initiated by Respondent No. 2, Bokaro Steel Plant to allot a plot in Sector-III measuring an area of 87,120 sq. feet on lease basis initially for a period of 33 years from the date of issuance of allotment order on the terms and conditions mentioned in the agreement and on deposit of a sum of Rs. 1,54,15,531/- within a period of two months of the issue of the said letter. Accepting the said proposal the petitioner arranged the amount and deposited the entire sum of Rs. 1,54,15,531/-. Even after depositing the said amount, the respondents did not execute the formal deed of lease. The petitioner remanded the authority repeatedly to execute a formal lease deed. Instead of executing the deed of lease, the authority issued a letter dated 24/12/2010, expressing its regret to execute the formal lease deed in furtherance to the allotment made earlier.

That order, as contained in letter dated 24/12/2010, was challenged before this Court in WPC No. 851 of 2011, which was quashed by this Court on 31/01/2012, for the reason that the action of the respondents in refusing to execute the lease deed was not justified and proper and the said order was passed without giving any notice and without hearing the petitioner, which has resulted in civil

consequences affecting the interest of the petitioner adversely. Accordingly, said order was quashed. However, liberty was reserved with the authority to take a fresh decision in accordance with the procedure established by law.

Pursuant to that order, notices dated 05-06-2012 and 11-08-2012, were issued to the petitioner to show cause as to why not the allotment order be withdrawn. Pursuant to those notices, reply was given stating therein that after accepting the proposal of the Respondent No. 2 of allotment of the land for constructing Hyper Market, the petitioner did deposit the amount and was called upon to choose amongst the possible three locations suitable for Hyper Market and allied facilities identified by the respondents. However, the authority vide its letter as contained in letter No. TA/LRA/2013/3251 dated 23-10-2013 (Annexure-11), informed to the petitioner that the allotment order dated 07/02/2009 stands withdrawn as setting up Hyper Market is not covered under the guideline set out by Board of SAIL as approved in its 340th Meeting and such allotment does not fall within the ambit and scope of the mandate of the terms and conditions set out by the Board. It was indicated that under Clause 3 (a) 5 of the decision taken in its 340th Meeting by the Board of Directors of SAIL, it had been decided to allot a plot with the approval of the Chief Executive of the Plants/Units as indicated below:

"For other purposes such as Banks, Shops, Cinema Halls, Nursing Homes, Petrol Pumps, Expellers, Wheat Grinding etc."

2. In the order it was further indicated that the word "etc." had wrongly been interpreted by BSL to include Hyper Market, Malls, Multiplexes or Cultural Complexes and, thereby, any allotment for constructing Hyper Market by the SAIL/BSL with the approval of MD/CEO of the Plants/Units concerned cannot be in conformity with the SAIL Board approved terms and conditions of allotment of plots.

3. That order dated 23-10-2013, as contained in Annexure-11, has been challenged in this writ application.

4. Mr. Anil Kumar Sinha, learned senior counsel appearing for the petitioner submits that the decision of the authority to the effect that allotment of land for the purpose of constructing Hyper Market/Malls/Multiplexes, cannot be made as it is against the policy decision taken by the Board of Directors in its 340th Meeting is arbitrary as the decision is there of the Board of Directors that the land can be allotted for the purposes such as Banks, Shops, Cinema Halls, Nursing Homes, Petrol Pumps, Expellers, Wheat Grinding etc., which are illustrative and not exhaustive as those clauses is suffix with etc., which means that the allotment can be made for the purpose of the construction of similar nature of things such as Hyper Market and Multiplexes and, thereby, it is absolutely wrong on the part of the authority to say that the word "etc." does not include Hyper Market, Malls, Multiplexes or Cultural Complexes and, thereby the said letter is fit to be quashed particularly when Amit Reality Private Limited, has

been allotted the land for constructing Multiplex/Shopping Malls.

5. As against this, Mr. G.M. Mishra, learned counsel appearing for the respondents submits that the allotment of land had wrongly been made by the authority for the purpose of construction of Hyper Market as it was not in consonance with the decision taken in 340th Meeting of the Board of Directors and, thereby, the authority was absolutely justified in withdrawing the allotment of the land to the petitioner, which the petitioner cannot claim for settling it in its favour particularly when the allotment letter dated 07-02-2009, was containing a clause relating to reserving the right to withdraw the allotment any time before execution of the agreement for lease with or without assigning any reason.

6. It was further submitted that the case of settlement relating to Amit Reality Private Limited was quite different as the lease agreement was executed only when the terms and conditions of the allotment letter were complied with.

7. Thus, the issue, which has cropped up is that whether the authority is justified in withdrawing the order of allotment by taking recourse that said allotment of plot for construction of Hyper Market/Multiplexes was not in consonance with the decision taken by the Board of Directors in its 340th Meeting. However as the decision taken in that Meeting the land can be allotted for the purpose such as Banks, Shops, Cinema Halls, Nursing Homes, Petrol Pumps, Expellers, Wheat Grinding etc. The said decision is under Clause-3 of the terms and conditions for allotment (leasing/sub-leasing) of lands to Government/Outside Agencies in Steel Plants/Units for various purposes, which reads as follows:"

"3.0 Plot Sizes for Allotment

(a) The Chief Executives of Plants/Units may approve allotment of land plots as follows:

8. It would be pertinent to note that in terms of Clause 1(d) allotment of land can be done to individual and private parties also for public purposes. In spite of word "etc." appearing at Sl. No. 5, the authorities are taking plea that since specific words such as Hyper Market, Super Market, Multiplexes are not there, the authorities misconstrued the said provision in making allotment. The said decision is absolutely unreasonable, unjustified and against the resolution of the Board. According to Black's Law Dictionary 8th Addition, meaning of the word "etc." has been given in the manner indicated below:

"etc-ETCETRA

et cetra (et set-ar-a) [Latin "and others"] And other things. The term use, indicates additional, unspecified items in a series-Abbre. etc."

9. Thus, the word "etc." indicates about the additional unspecified items in a series. So far as this case is concerned items as per Sl. No. 5 of the aforesaid table are bank, shops, cinema hall, nursing homes, petrol pump, expellers, wheat grinding and as such Multiplex and Hyper Market can be added to as the

Multiplex and Hyper Market are only the clusters of shops, which are of public utility and, thereby, it can be said to be in same series. In that event, it is absolutely wrong on the part of the authority to say that the allotment of land cannot be made for the purpose of construction of Hyper Market. Under the circumstances, the order dated 23/10/2013 as contained in Annexure-11, is hereby set aside. Consequently, the authorities are directed to consider the case of the petitioner and take decision in accordance with law.

Thus, this writ application stands allowed.