

(2022) 11 PAT CK 0092

In the Patna High Court

Case No : Miscellaneous Jurisdiction Case No. 1200 Of 2016 In Civil Writ
Jurisdiction Case No. 19325 Of 2013

Khas Mahal Citizen's Welfare Society

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 30-11-2022

Acts Referred:

Citation : (2022) 11 PAT CK 0092

Hon'ble Judges : Sanjay Karol, CJ

Bench : Single Bench

Advocate : Nikhil Kumar Agrawal, Aditi Hansaria, Jitendra Kishore Verma,
Devendra Kr Sinha, Sarvesh Kumar Singh

Final Decision : Disposed Of

Judgement

Re: I.A. No. 1 of 2022

The instant Interlocutory Application has been filed for making necessary correction in the cause-title of the petition.

For the reasons mentioned in the application, the same is allowed.

Petitioner is allowed to make necessary correction in the cause-title of the petition.

Registry to take follow up action.

I.A. No. 1 of 2022 stands disposed of.

Re: MJC No. 1200 of 2016

The instant petition has been filed for initiation of contempt proceedings against the opposite parties for deliberately and wilfully not complying with the judgment dated 08.10.2015, passed by a co-ordinate Bench of this Court in CWJC No. 19325 of 2013, titled as Khas Mahal Citizen Welfare Society Vs. The State of Bihar & Ors.

Operative portion of the aforesaid judgment dated 08.10.2015, which is alleged to have been violated, reads as under:-

"I have already discussed some of the covenants of the lease present at Annexure-2 series and certainly it is not in the nature of simple contract rather it is in the nature of transfer of interest in land and creates a vested legal right in the lease holder to the exclusion of others. The contractual obligations cast on the parties to the lease exercised under the 'Khas Mahal Manual' would bind the parties until the lease is determined by a competent forum. The State as a lessor in such circumstances can neither refuse acceptance of rentals nor can refuse a renewal.

In my considered opinion in the circumstances discussed hereinabove and taking into consideration the covenants present in the existing lease executed in between the State and the lessees under the 'Khas Mahal Manual', any attempt by the State to impose the conditions present in the '2011 Policy' would be an act of arbitrariness, in teeth of the judicial precedent and a blot on the State's action in the contractual sphere.

For the reasons aforementioned, this Court even while reserving its opinion as regarding the merits of the "2011 Policy" does deem it fit and proper to hold that the "2011 Policy" can not be made applicable to the pre existing lease(s) entered in between the State as a lessor and the individual / juristic person on the other hand as a lessee and the right of the parties under such lease(s) would continue to be governed by the provisions of the 'Khas Mahal Manual' and the covenants present in the lease(s).

The writ petition is accordingly allowed."

In the response affidavit, the respondents have averred as under:-

"7. That it is humbly submitted that in view of 51 applications received with regard to issuance of revenue receipt, 25 applications have been disposed and revenue receipts issued to the Khas Mahal land owners. The remaining matters are under consideration and will be disposed within a short period of time."

The instant petition stands disposed of with a direction to the respondents to positively take a decision with respect to the pending 25 applications after ascertaining the authenticity of the applicants vis-a-vis the membership of the petitioner society and the fact that they were members at the relevant point in time.

Needful be positively done within a period of four weeks.

The Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna shall personally supervise the same.

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