
(2004) 07 PAT CK 0076
In the Patna High Court
Case No : C.W.J.C. No. 11902 of 1999

Nand Lal Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-07-2004

Acts Referred:

Citation : (2004) 3 PLJR 539

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Madhuresh Kr. Sinha and Akash Deep, for the Appellant; J.C. to G.P. IV for State and S.R. Srivastava and Awadhesh Pd. Sinha for Respondent Nos. 4 and 5, for the Respondent

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the communication dated 11.3.1999 (Annexure-10) whereby the Director, Panchayati Raj had written to the Chief Executive Officer of Zila Parishad, Patna declining to pay interest and directing that only a sum of Rs. 36,000/- deposited by the Petitioner be refunded within a week as the State Government had taken the decision not to sell the land which was put on auction.

2. Short facts giving rise to the present application are that an auction was held on 21.10.1970 for sale of land belonging to the State. Petitioner participated in the auction and offered to purchase the said land for a sum of Rs. 36,000/-. Petitioner deposited the said amount on 21.10.1970. The stand of the Petitioner is that the State Government although approved the auction in 1973 itself but failed to execute the sale deed, hence he preferred CWJC No. 9493 Nand Lal Prasad v. State of Bihar and Ors. before this Court. This Court by order dated 4.5.1998 (Annexure-8) dismissed the writ application observing that the matter has become stale. Petitioner challenged the said order in LPA No. 582 of 1998 Nand Lal Prasad v. State of Bihar and Ors. When the matter was taken up on 22.12.1998 it was observed as follows:

A joint prayer is made on behalf of all the parties that the State Government be directed either to issue direction for registration of the land in question in favour of the Appellant, who was the highest bidder and in whose favour the bid was knocked down after accepting the required amount of bid and hand over the possession to him, or to assess and to pay the price of the land in, question to him.

After hearing the submission, this Court directs the State Government to do the needful in the matter as suggested by learned Counsel appearing for the parties, narrated above, within one month from today.

Learned Counsel appearing for the State also undertakes to inform the State Government so that expeditious decision may be taken by the Government.

3. In the light of the said order, the impugned order dated 11.3.1999 has been issued directing for refund of a sum of Rs. 36,000/- to the Petitioner within a week, but without any interest thereon. Thereafter the aforesaid Letters Patent Appeal was placed for consideration and the same was disposed of with the following observation:

Grievance of the Appellant now is that the State Government has directed to refund simply the bid amount and no interest has been directed to be paid to him.

In our view, this is a fresh cause of action for which the Appellant may file a writ application for redressal of his grievance.

4. Thereafter the Petitioner has preferred this application.

5. Counter affidavit has been filed on behalf of Respondent No. 4 in which has been stated that a sum of Rs. 1,09,000/- has been paid towards interest which has been calculated @ 10% simple interest for the period October, 1970 to March, 2001. However, it is conceded that the cheque for the aforesaid interest amount and the principal amount of Rs. 36,000/- was paid to the Petitioner on 29.4.2004.

6. Mr. Madhuresh Kumar Sinha, learned Counsel for the Petitioner contends that the Petitioner being the highest bidder and having paid the amount, Respondents are under an obligation to transfer the land in his favour. Mr. S.P. Shrivastava learned Counsel appearing on behalf of Respondent No. 4, however, submits that in view of the order dated 1.11.1999 passed by this Court in L.P.A. No. 582 of 1998 the Petitioner cannot claim for the transfer of the land and as such prayer of the Petitioner to that extent is fit to be rejected.

7. Having considered the rival contention, I do not find any substance in the submission of Mr. Sinha. As stated earlier, Petitioner came to this Court for such a relief and by order dated 4.5.1998 passed in CWJC No. 9493 of 1995 said prayer was rejected observing the claim of the Petitioner to be a stale. Thereafter when the matter was taken up by the Division Bench, grievance of the Petitioner was either to hand over the possession or to assess and pay the price of the land

in question to him. Taking note of the aforesaid submission, this Court directed the State Government to do the needful in the manner suggested by the Petitioner. Thereafter the impugned order dated 11.3.1999 was passed and when the matter was taken up by this Court on 1.11.1999 this Court observed that denial to pay the interest gives a fresh cause of action to the Petitioner for which he may file a separate writ application. Thus the prayer of the Petitioner for transfer of the land has not been accepted by this Court and the matter stands concluded by the orders referred to above.

8. Mr. Sinha learned Counsel then contends that the grant of simple interest @ 10% is absolutely inadequate and that too only for the period October, 1970 to March, 2001. In this connection learned Counsel has drawn my attention to the letter dated 13.1.1996 (Annexure-7) addressed by the Chief Executive Officer of the Zila Parishad, Nalanda to the Director, Panchayati Raj wherein he has observed this in case the interest as is given to the holder of Indira Gandhi Vikas Patra is given to the Petitioner, the State Government will have to refund a sum of Rs. 11 lakhs. Thus the learned Counsel contends that the interest given to the Petitioner is absolutely inadequate.

9. Mr. Shrivastava submits that in the facts of the present case the interest forwarded cannot be said to be inadequate and the same does not require interference by this Court.

10. Having considered the rival sub-mission, I am of the opinion that the Petitioner has not been properly treated by the Respondents. He has deposited the amount back as on 21.10.1970. The Respondents declined to transfer the land. It is only after the Petitioner had resorted to the present proceeding that the State Government had woken up and paid to the Petitioner the principal amount along with the simple interest @ 10%. Not only this although the cheque has been handed over on 29.3.2004 but the interest has been paid from October, 1970 to March, 2001. I do not know for what reason the interest till the date of payment has not been paid to the Petitioner.

11. In the facts and circumstances of the case, I am of the opinion that the Petitioner shall be entitled for payment of interest from the date of deposit of the amount i.e. 21.10.1970 till the date of its payment and the rate of interest would be the same as given by the State Bank of India in its Savings Bank Deposit from time to time. The amount so directed to be paid be paid to the Petitioner within two months from today. In case of failure on part of the Respondents to pay the said amount within the period stipulated, their action shall be viewed very seriously.

12. In the result the application is allowed. Respondents are directed to pay to the Petitioner the amount as indicated above. Petitioner shall also be entitled for the cost of this litigation which assess at Rs. 5,000/- (Rupees five thousand) to be paid by Respondent No. 2 to the Petitioner within the aforesaid period.