

(2008) 12 PAT CK 0068
In the Patna High Court
Case No : LPA No. 662 of 2008

Sheokumar Singh

APPELLANT

Vs

Chairman, State Transport Appellate Tribunal, Patna and
Others

RESPONDENT

Date of Decision : 04-12-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2009) 1 PLJR 496

Hon'ble Judges : R.M. Lodha, C.J.; Kishore K. Mandal, J

Bench : Division Bench

Advocate : Ashok Kumar Dubey, Yogendra Kumar Mishra, Raghunath Kumar and Nityanand, for the Appellant; Ashok Kumar Choudhary and Navendu Kumar for the Respondent No. 4, for the Respondent

Final Decision : Dismissed

Judgement

1. The appeal has chequered history. This litigation has had multiple rounds before the Regional Transport Authority as well as the State Transport Tribunal before reaching this court. In the year 1988, a decision was taken to establish a bus-stand at Mahua (district-Vaishali) to meet the needs of traveling public. The appellant offered his land for the purposes of the said bus-stand. The offer made by the appellant was accepted and a formal agreement is said to have been executed on 1st of March, 1988 between the appellant and the district administration. The bus-stand at Mahua was, thus, settled in favour of the appellant. Vide resolution dated 8.11.1999 of North Bihar Regional Transport Authority (for short, "NBRTA") and the order dated 2nd December, 1999 of the Additional Collector, Vaishali, the agreement dated 1st of March, 1988 entered with the appellant regarding Mahua busstand and the settlement in his favour was cancelled. At the same time the agreement for the bus-stand at Mahua was entered into with Manoj Kumar. The appellant preferred transport revision against the aforesaid order before the State Transport Appellate Tribunal, Bihar, Patna (for short, "the Tribunal"). By its order dated 29th December, 2004 the

Tribunal set aside the order of cancellation of agreement and remitted the matter back to the NBRTA for fresh consideration in accordance with law and by passing a reasoned order.

2. Consequent upon remand, the NBRTA reconsidered the matter vide its resolution dated 14th March, 2005 and upheld the cancellation of the agreement of the appellant principally on two grounds, namely, (one) that the appellant was involved in a criminal case for the offence punishable u/s 302 of the Indian Penal Code and (two) that he had executed power of attorney in favour of Ramprit Rai for running the bus-stand and thereby sublet and parted with possession of the bus-stand. Aggrieved by the resolution of the NBRTA dated 14th March, 2005, the appellant again approached the Tribunal. The Tribunal by its order dated 29th of June, 2006 set aside the resolution dated 14th of March, 2005 and remitted the matter back to the NBRTA for considering the matter afresh after observing all legal formalities.

3. By the time the matter was remitted back to the NBRTA, a controversy arose about the settlement made in favour of Manoj Kumar as it was found that there was litigation between him and the lessor in respect of the land. Consequently, during the pendency of the matter before the NBRTA, after calling for reports from various authorities, namely, Sub-Divisional Officer, Mahua, Sub-Divisional Police Officer, Mahua, Superintendent of Police, Vaishali and District Magistrate, Vaishali, the NBRTA maintained the order of cancellation of agreement of the appellant; it also cancelled the agreement with Manoj Kumar and decided to enter into a fresh agreement. The resolution passed by the NBRTA on 11th September, 2006 was again challenged by the appellant in transport revision application before the Tribunal. Manoj Kumar also aggrieved by the cancellation of his settlement preferred a separate transport revision. Inter alia, the revision application filed by the present appellant was dismissed by the Tribunal on the ground that Manoj Kumar was not impleaded as party respondent. The Tribunal concurred with the view of the NBRTA for going ahead with fresh proposal for settlement of bus-stand at Mahua. The order passed by the Tribunal on 16th March, 2007 dismissing the revision application filed by the present appellant came to be challenged by him by filing a writ petition being CWJC No. 6744 of 2007. Since the revision application filed by Manoj Kumar also came to be dismissed by the State Transport Authority, he also filed the writ petition being CWJC No. 6666 of 2007. Both the writ petitions were heard together by the Single Judge and dismissed vide order dated 8th July, 2008. It may be noticed here that during the pendency of the writ petition, the NBRTA settled the bus-stand at Mahua in favour of Binod Kumar (respondent No. 4). We may indicate here that by a separate order passed by us today, the appeal preferred by Manoj Kumar being LPA No. 624 of 2008 has been dismissed.

4. Although, the counsel for the appellant criticized the judgment of the Single Judge on diverse grounds, inter alia, that the contentions advanced on behalf of the writ petitioner (present appellant) were not decided and that Manoj Kumar

was not necessary party in the transport revision filed by the appellant before the State Transport Tribunal and, moreover, there was no objection by Manoj Kumar as he had already filed a separate revision application but as a matter of fact, the counsel for the appellant did not show us the agreement dated 1st of March, 1988 entered into between him and the district administration despite our repeated query. The perusal of the agreement was important as it has been cancelled on two stated grounds, namely, (one) that the settlee (appellant) was involved in a murder case and (two) that by power of attorney executed in favour of Ramprit Rai, he has sublet and parted with the possession of the bus-stand. We have to, therefore, assume that on the stated grounds the agreement was liable to be cancelled. On facts, both the stated grounds are not denied.

5. The counsel for the appellant would submit that the new settlee Binod Ram has entered into partnership with four other persons (Annexure-28 with the appeal) which is nothing but subletting and nothing has been done against him.

6. We do not deem it necessary to go into the question whether the partnership entered into by Binod Ram with four other persons amounts to subletting or not, suffice it to say that in view of the admitted position that the appellant has executed power of attorney in favour of Ramprit Rai, the view of the authority that the appellant has sublet and parted with the possession of the bus-stand, cannot be said to be legally bad.

7. Since there is no patent illegality in cancellation of agreement of the appellant, at least that has not been demonstrated to us and now since a fresh settlement has been made in favour of respondent No. 4, we are satisfied that appeal does not deserve to be admitted.

8. Appeal is, accordingly, dismissed in limine. We would like to clarify that if settlement in favour of Binod Ram has been challenged by some other affected parties before the State Transport Appellate Tribunal, then such settlement in favour Binod Ram is subject to the decision of the Tribunal in pending revision application, which, obviously, would be decided on its own merit.