

(2017) 07 PAT CK 0039

In the Patna High Court

Case No : 979 of 2016

The State of Bihar

APPELLANT

Vs

Khas Mahal Citizen Welfare Society

RESPONDENT

Date of Decision : 19-07-2017

Acts Referred:

Citation : (2017) 07 PAT CK 0039

Hon'ble Judges : Rajendra Menon, Anil Kumar Upadhyay

Bench : DIVISION BENCH

Advocate : Khurshid Alam, Y.V. Giri, Jitendra Kishore Verma, Nikhil Kumar Agrawal

Final Decision : Dismissed

Judgement

1. Seeking exception to an order dated 08.10.2015 passed by the learned Writ Court in C.W.J.C. No. 19325 of 2013, this appeal has been filed by the State Government and the issue in question involved pertains to lease granted to the respondent Society and its members (lessee) and certain action said to have been taken by the Society in pursuance to the lease granted.
2. Taking shelter of a policy which came into force in the year 2011, namely, the Bihar Khas Mahal Policy, 2011, action was proposed to be taken against the Society and the Society and its members (lessee) approached this Court in the writ petition and in the writ petition it was found that the policy of 2011 will have prospective effect, will not apply and cannot be made applicable to

any act of the Society and its members prior to coming into force of the policy and further holding that if any act has been undertaken contrary to the lease deed prior to forming of the policy, the State had right to proceed in the matter of cancellation of the lease deed in terms of the lease deed and to get the lease deed cancelled in accordance with law or to take recourse to the remedy of filing a suit for getting the transaction declared as null and void i.e. which took place prior to coming into force of the policy in question. Prima facie holding that the policy in question which came in the year 2011 cannot be used against the acts of the Society and its members which took place prior to coming into force of the policy, the writ petition has been allowed and liberty has been granted to the State Government to proceed in accordance with law for violation of the lease deed granted. In fact by the policy in question the State Government is trying to change the conditions of the lease, which according to learned Writ Court was not permissible.

3. In the circumstances, we are of the considered view that the Writ Court has not committed any error warranting consideration.

4. The Letters Patent Appeal stands dismissed.