

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Letters Patent Appellate Jurisdiction)

L.P.A. No. 23 of 2023

Jharkhand/Jamshedpur Animal Welfare Society, through the President of the Society, Dr. Arun Kumar Jha, aged about 63 years, son of C. S. Jha, Resident of M. S. 92H6 straight Mile Road, Near Loyola Niwas, P.O. Sakchi, P.S. Sakchi, District Purbi Singhbhum **Petitioner/Appellant**

Versus

1. The State of Jharkhand through Chief Secretary, at Project Building, Dhurwa, P.O. Dhurwa, P.S. Dhurwa, District Ranchi
2. The Deputy Commissioner, Jamshedpur, P.O. Sakchi, P.S. Sakchi, District Jamshedpur **Respondents/Respondents**

CORAM: HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant

: Mr. P. K. Choudhary, Advocate

Mr. Amrit Arunay, Advocate

For the State

: Mrs. Shalini Shahdeo, AC to SC (L&C) I

Dated: 31st January 2024

Per, Anubha Rawat Choudhary, J.

I.A. No. 7735 of 2023

This interlocutory application has been filed for condonation of delay of 209 days in filing the present Letters Patent Appeal.

2. Learned counsel for the appellant has referred to paragraph Nos. 2 to 4 of the interlocutory application.

3. Learned counsel for the State has no serious objection to the prayer for condonation of delay.

4. After going through the interlocutory application and being satisfied with the cause shown, the delay of 209 days in filing the present Letters Patent Appeal is hereby condoned.

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5. This appeal is taken up on merits.

6. This appeal has been filed against the order dated 8th July 2021 passed in W.P. (C) No. 798 of 2019 whereby the learned writ Court has dismissed the writ petition with certain observation.

7. The following prayer was made by the appellant before the learned writ Court:

“(1) That through this writ application the petitioner above named seeks issuance of appropriate writ(s)/order(s)/direction(s) upon the respondents for settled/allotted the land in favour of Jharkhand/Jamshedpur Animal Welfare Society situated at Jamshedpur on nominal cost for Animal Welfare Scheme.”

8. The operative portion of the impugned order of the learned writ Court is quoted as under: -

“The grievance of the petitioner is that the cost of the said land and the amount of Salami are too high and exorbitant and it is not in position to pay the said amount to the Government. Learned counsel for the petitioner has, however, not produced any policy before this Court under which the land could have been settled to it on payment of a meagre/notional amount. Except annexing few letters issued by the Joint Secretary and Deputy Secretary, Ministry of Social Justice and Empowerment, Government of India, New Delhi in the year 1999, 2000 and 2001, the petitioner has not brought on record any such scheme of the Central Government or the State Government for settlement of land to a society/person for the purpose of animal welfare. Since letter dated 17th February, 2016 has already been issued in favour of the petitioner intending to settle the land on lease subject to payment of Salami, I see no reason to pass any further order on the present issue.

It is, however, open to the petitioner to accept the terms of lease as mentioned in the letter dated 17th February, 2016, if the said land has not yet been transferred in favour of any other person.

The writ petition is, accordingly, dismissed.”

9. The appellant had moved earlier before this Court in W.P. (C) No. 3690 of 2002 against the decision of the Deputy Commissioner, Jamshedpur who was alleged to have refused to allot suitable land to it for the purpose of erecting animal shelter and animal hospital. In the said writ petition, a counter-affidavit was also filed and the writ petition was disposed of vide order dated 24th February 2003 with a direction to the Deputy Commissioner to look into the matter and take a decision in consultation with the TISCO authorities so that the appellant's society could be provided a piece of land for the purpose of taking care and welfare of the animals.

10. Consequently, a letter was issued by the Deputy Commissioner in favour of the appellant on 17th February 2016 demanding an amount of Rs. 47,90,400.00 i.e. 80% of the land value to be deposited in the government treasury through Challan.

11. In the present proceeding, this is the case of the writ petitioner that the society of the petitioner is doing work under welfare scheme so the writ petitioner was unable to pay the said amount due to paucity of fund. A representation was filed on 3rd June 2016 and when no decision was taken, the writ petition being W.P. (C) No. 798 of 2019 was filed which has been dismissed by the impugned order.

12. Thus, the case of the appellant before the writ Court was that the appellant was not able to pay the amount demanded for settlement of land and therefore they sought a mandamus upon the respondents to settle the land at a nominal cost but no such provision was brought on record to justify such a prayer.

13. Before this Court also, the appellant has not been able to point out any provision of law or policy of the State Government or Central Government in support of its prayer made in the writ petition for settlement of land in its favour at nominal cost although a letter dated 17th February 2016 was already issued to it indicating the amount to be paid by it for settlement. The learned counsel for the appellant has submitted that the appellant is working for the welfare of animals therefore the State ought to have settled/allotted land in its favour at nominal cost for the welfare of the animals.

14. Learned counsel for the respondents has opposed the prayer and submitted that there is no such provision in law to accede to the prayer made by the appellant and therefore the writ petition has been rightly dismissed.

15. After hearing the learned counsel for the parties and going through the impugned order, this Court finds that the learned writ Court has dismissed the writ petition and has observed that the appellant has not produced any policy before the Court under which the land could have been settled to it on payment of meagre or notional amount. The appellant has also not brought on record any such scheme of the Central Government or the State Government for settlement of land to a society or person for the purpose of animal welfare. The learned writ Court has also observed that since letter dated 17th February 2016 has already been issued in favour of the appellant intending to settle the land on lease subject to payment of Salami, the learned writ Court did not find any reason to pass further orders and dismissed the writ petition.

16. In the aforesaid circumstances, this Court is of the considered view that the learned writ Court has rightly refused to issue a mandamus as prayed for by the writ petitioner by citing reasons. This Court finds no illegality or perversity in the impugned order passed by the learned writ Court calling for any interference. Accordingly, L.P.A. No. 23 of 2023 is dismissed.

(Shree Chandrashekhar, A.C.J.)

(Anubha Rawat Choudhary, J.)

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