

IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.15385 of 2007

Rakesh Shahi, son of Gaensh Shahi, resident of Mohalla-Rasulpur Jilani,
Chakkar Road, P.S. Kazi Mohammadpur, District-Muzaffarpur.

-Petitioner.

VERSUS

1. The State of Bihar.
2. The Secretary, Forest Department, Irrigation Bhawan, Patna.
3. The Divisional Forest Officer, Motihari Forest Division, East Champaran (Motihari).
4. The Chairman, District Board, East Champaran, Motihari.
5. The Deputy Chairman, District Board, East Champaran, Motihari.
6. The District Development Commissioner-cum-Chief Executive, District Board, East Champaran, Motihari.

-Respondents.

For the Petitioner : Mr. S.B.K. Manglam, Adv.
Mr. Shashi Bhushan Singh, Adv.
For the State : Kumar Pankaj, A.C. to SC-16.

02 30.04.2009

The petitioner had purchased inter alia two lots of timber from Forest Department. It is not in dispute that for the said he has deposited earnest money and was required to deposit the balance within the specified time and then take delivery of the timber. Petitioner filed an application before the authorities for grant of extension of time to pay the amount, on the ground that his wife is seriously ill, who had to be taken to Delhi for treatment. It is stated here that the said application was filed well within the time that was originally fixed for payment. No one responded, but, at the same time, it is clear that inter-departmentally authorities were seeking approval for granting extension. Petitioner not having heard anything then again filed an application for grant of one

month time and again stating the same and bringing to their notice that he was going through a trouble face so one month time may be granted. This was belatedly respondent but by a curious order. What that order purports one can only understand if the same is very clear. It says that petitioner had sought for 35 days and one month extension. Both periods are now over, yet petitioner has not deposited the money. Therefore, the advance money and the security is being forfeited. It is not stated in this letter is that authorities did not reject petitioner's application, as and when, it was made. Had the authorities rejected the application at the first instance itself. Petitioner had ended time to deposit and remove the timber so purchased but authorities got involved in internal communication seeking approval for granting extension and now petitioner is being blamed as if permission to deposit the amount within 35 days and one month extension was granted.

In my view, this cannot be sustained. The permission and/or refusal has to be communicated, as and when sought for, otherwise it not only creates confusion but also it creates problems. It is not that the authorities had no power to grant extension, in fact, recommendations were made seeking approvals, but then every one forgot about it. This is highly arbitrary. Therefore, the order forfeiting the advance and the earnest money cannot be sustained. The order, as communicated under Memo No. 1775 dated 27.09.2007 of the Divisional Forest Officer, Motihari, cannot be sustained and is set aside. The authorities are directed to

refund the said amounts to the petitioner within a period of one month from the date of production of a copy of this order before the said respondents.

The writ petition is disposed of accordingly.

Trivedi/

(Navaniti Prasad Singh, J.)

