

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
L.P.A. No.225 of 2007**

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Bharat Electronics, a Partnership Firm, having registered office at Anjuman Plaza, Main Road, Ranchi through one of its partners, Haji Md. Gyamuddin @ Munna @ Md. Gheyasuddin, son of Md. Qeyamuddin, resident of Azad Basti, P.O. & P.S. Lower Bazar, Ranchi.

..... Appellant.

-Versus-

1. C.C. Vermani, son of Shri Lajat Rai Vermani, at present residing at-5, Main Road, Ranchi, P.O. and P.S. – Chutia, District-Ranchi.
2. Bihar State Tourism Development Corporation, Veerchand Patel Path, P.O. and P.S. Patna Sadar, District-Patna.
3. General Manager, Bihar State Tourism Development Corporation, Veerchand Patel Path, P.O. and P.S. Patna Sadar, District-Patna.
4. Manager (Administration), Bihar State Tourism Development Corporation, Veerchand Patel Path, P.O. and P.S. Patna Sadar, District-Patna.
5. Jharkhand State Tourism Development Corporation, Ranchi (General Manager), P.O. Ranchi GPO, P.S. Chutia Main Road, Ranchi.

..... Respondents.

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**CORAM : HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Appellant : Mr. A. Allam, Sr. Advocate  
For the Res. No.1 : Mr. Birendra Kumar, Advocate  
For the Res. No.5 : Mr. Sumeet Gadodia, Advocate

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**Order No.48**

**Date: 13.05.2026**

1. Heard Mr A. Allam, learned senior counsel for the appellant; Mr Birendra Kumar, learned counsel for the respondent no.1; and Mr Sumeet Gadodia, learned counsel for the respondent no.5.
2. Mr Gadodia states that the premises which form the subject matter of this appeal were earlier held by the respondent nos.2,

3 and 4. However, after the passage of Bihar State Re-organisation Act, 2000, these premises are held by the 5<sup>th</sup> respondent. Therefore, the respondents nos. 2, 3 & 4 would not have any interest in these premises and, consequently, in this appeal.

3. In any event, we note that the respondents nos 2, 3 and 4 have been duly served in this appeal. There is no appearance on their behalf, possibly because they no longer have any interest in the premises which form the subject matter of this appeal.
4. This appeal concerns Shop No. 1 in the Bazar Complex at Main Road, Ranchi, which was initially established by the respondents nos. 2, 3 and 4 and is now held by the 5<sup>th</sup> respondent. For convenience, however, we refer to the 2<sup>nd</sup> to 5<sup>th</sup> respondents collectively as the "Jharkhand State Tourism Development Corporation" or simply the "Corporation".
5. The shop was auctioned and let out on a long lease of 66 years to the 1<sup>st</sup> respondent on certain terms and conditions, including payment of *Salami* at the rate of Rs. 1,000/- per square foot.
6. Conditions 14 and 16 of the allotment are relevant and, therefore, transcribed below for the convenience of reference:-

*"14. Out of the total Salami deposit amount, 1<sup>st</sup> installment of 25% amount will be payable within one month time as 1<sup>st</sup> installment the 2<sup>nd</sup> installment of 50% within four months time and the last and 3<sup>d</sup> installment of 25% within 6 month's time from the date of issue of allotment letter to candidates through a crossed Bank Draft in favour of B.S.T.D.C. payable at Patna. However, the possession of the shop shall be given to party only after the payment of 2<sup>nd</sup> installment i.e. after payment of 3/4<sup>th</sup> amount of Salami.*

*16. If the allottee fails to deposit 1<sup>st</sup> installment within stipulated 2 months after issue of allotment letter, his earnest money shall be forfeited. If allottee fails to deposit 2<sup>nd</sup> installment after depositing 1<sup>st</sup> installment within stipulated 6 months of allotment letter; his first installment deposit shall be forfeited. And if the allottee fails to deposit last installment of 25% within 2 months of taking possession or six months of issue of allotment letter which ever a later and/or does not start business within this period. His allotment shall be cancelled & 1<sup>st</sup> installment of 25% paid by him shall be forfeited."*

7. The total amount payable by the 1<sup>st</sup> respondent was determined at Rs. 2,61,970/-, as the area of Shop No. 1 was 261.97 square feet. This amount of *Salami* was payable by the 1<sup>st</sup> respondent in three instalments, i.e., Rs. 65,492.50-1<sup>st</sup> instalment; Rs. 1,30,985- 2<sup>nd</sup> instalment; and Rs. 65,492.50-3<sup>rd</sup> instalment.
8. The record shows that the 1<sup>st</sup> respondent paid the 1<sup>st</sup> instalment of Rs. 66,000/- vide bank draft dated 25<sup>th</sup> September, 1989. However, insofar as the 2<sup>nd</sup> instalment was concerned, there was some delay on the 1<sup>st</sup> respondent's part to pay the same. Still, the record shows that Rs. 40,000/- was paid vide bank draft dated 2<sup>nd</sup> February, 1990, Rs. 66,000/- vide bank draft dated 3<sup>rd</sup> February, 1990, and Rs. 50,000/- vide bank draft dated 9<sup>th</sup> April, 1990.
9. The 1<sup>st</sup> respondent alleged that the construction of Shop No. 1 was completed sometime in 1991-92, but the Corporation did not hand over possession of said Shop No. 1, though the 1<sup>st</sup> respondent had paid two instalments, after some delay. There was some correspondence between the parties on the issue of

payment of instalments, ground rent, maintenance charges and handing over of the possession of Shop No.1.

10. The 1<sup>st</sup> respondent's case was that he was required to be placed in possession after he made the payment of the 2<sup>nd</sup> installment. The Corporation's contention was that such payment was made beyond the stipulated period, and that there were other issues regarding the payment of ground rent, maintenance charges, etc.
11. For almost seven to eight years from the date by which the 3<sup>rd</sup> instalment had to be paid, the 1<sup>st</sup> respondent failed to pay the 3<sup>rd</sup> instalment, and the Corporation failed to place the 1<sup>st</sup> respondent in possession of Shop No.1. Finally, in 1997-1998, the Corporation, without issuing any formal termination or cancellation of lease or allotment order, held a fresh auction after issuing an advertisement and inviting offers.
12. In the fresh auction, Shop No.1 was allotted to the present appellant vide allotment letter dated 27<sup>th</sup> March, 1998. In terms of this allotment, the appellant was required to pay the entire *Salami* amount, which the appellant paid on 21<sup>st</sup> April, 1998. Upon payment of this amount, the appellant was placed in possession of Shop No.1 effective from 21<sup>st</sup> April, 1998. A formal agreement was also executed between the appellant and the Corporation on 12<sup>th</sup> March, 1999. The appellant, initially under the allotment order/lease deed and later under the interim orders of the Court, has continued in possession since.
13. The 1<sup>st</sup> respondent, by instituting a Civil Writ Jurisdiction Case No.1108 of 1998(R), without questioning the fresh auction and

the implied cancellation of his allotment, sought a writ of mandamus upon the Corporation for handing over the possession of Shop No.1 to him. This petition was allowed vide judgment and order dated 2<sup>nd</sup> May, 2007, which is the order impugned by the appellant herein in this letters patent appeal.

14. The operative portion of the impugned judgment and order reads as follows:-

*"15. In view of the totality of the circumstances, I allow this writ petition with the following directions:*

*(i) Petitioner shall deposit Rs.65,492/- with interest at the rate of 6% from March, 1990 till the date of judgment within one month from today (ii) Respondent nos.1 to 3 will take over the possession of shop No.1 from respondent no.4 and hand over the possession to the petitioner within four weeks from the date of receipt of the amount of 3<sup>rd</sup> installment and (iii) it is open to respondent nos.1 to 3 to offer any other available shop in the complex to the petitioner, who may elect to accept the same. In such an eventuality, above directions need not be enforced. (iv) Petitioner is also at liberty to ask for refund of entire amount. If so desired, he shall make an application to the Managing Director of the Corporation within one month and on receipt of the application, Corporation shall refund the entire amount of 1<sup>st</sup> and 2<sup>nd</sup> instalments to the petitioner with interest at the rate of 6% from the date of deposit till payment. Amount shall be refunded within one month from the date of receipt of application from the petitioner. In view of the facts and circumstances, no order as to costs."*

15. We have heard the learned counsel for the parties, perused the impugned judgment and order and the record made available to us.
16. Mr Allam, learned senior counsel for the appellant, submitted that the appellant was at no stage in default. Therefore, the direction

that the appellant should hand over the possession of Shop No.1 to the 1<sup>st</sup> respondent herein was not justified.

17. Mr Allam submitted that the 1<sup>st</sup> respondent defaulted in making the timely payment of the second instalment. Further, the 3<sup>rd</sup> instalment was never paid. After almost seven to eight years, an offer was made to pay the 3<sup>rd</sup> installment and based thereon, a writ of mandamus was applied for allotment of Shop No.1. In the meanwhile, the allotment was already made to the appellant after following a fair and transparent procedure of issuing a public advertisement and holding a public auction.
18. Mr. Allam, therefore, submitted that there was no fault on the part of the Corporation in holding the fresh auction. In any event, he submitted that even assuming that there were shortcomings on the part of the Corporation, the appellant cannot be made to suffer, more so since the conduct of the 1<sup>st</sup> respondent was also not blemishless, and his petition suffered from delay and laches.
19. Mr Gadodia submitted that the holding of the fresh auction was legal, particularly since, for almost seven to eight years, the 1<sup>st</sup> respondent had failed to offer the 3<sup>rd</sup> instalment and to meet other demands raised on behalf of the Corporation. He submitted that even the forfeiture of the deposited amount was consistent with the terms and conditions of allotment to the 1<sup>st</sup> respondent.
20. Mr Birendra Kumar, learned counsel for the 1<sup>st</sup> respondent, defended the impugned judgment and order on the basis of the reasoning set out therein. He submitted that the 1<sup>st</sup> respondent

was deprived of possession of Shop No. 1 despite having accepted the amounts due under the 2<sup>nd</sup> instalment.

21. Mr Birendra Kumar further submitted that the 1<sup>st</sup> respondent was always ready and willing to pay the 3<sup>rd</sup> instalment upon being placed in possession of Shop No. 1, consistent with the terms of the allotment. He submitted that the Corporation's action was arbitrary and violated principles of fairness and natural justice. He further submitted that no delay or laches were involved, and that the impugned order warrants no interference.
22. The rival contentions now fall for our determination.
23. In the facts and circumstances of this case, we are satisfied that both the Corporation and the 1<sup>st</sup> respondent are, to some extent, responsible for the prejudice they have collectively inflicted upon the present appellant. The fault on the Corporation's part, however, appears much greater than that of the 1<sup>st</sup> respondent. Therefore, this is a matter where equities shall have to be balanced and some equitable order made for the reasons discussed hereafter.
24. Admittedly, neither the Corporation nor the 1<sup>st</sup> respondent have alleged any fault on the appellant's part in this entire transaction. The records also do not point to any fault on the appellant's part in this entire transaction. The appellant applied for participation in the public auction pursuant to a public advertisement. After the appellant's bid was found to be the highest, an allotment order was issued in favour of the appellant. Under the terms of the allotment, the appellant paid the entire *Salami* amount within the

stipulated period. There is no allegation that the appellant did not comply with the terms and conditions contained in the subsequent agreement dated 12<sup>th</sup> March, 1999.

25. Given the above undisputed position, we believe that the impugned order, which visits the appellant, is a very serious prejudice, warrants interference. At the same time, we agree with Mr Birendra Kumar, learned counsel for the 1<sup>st</sup> respondent, that the impugned order, insofar as it interferes with the direction of forfeiture of the amount of Rs. 1,96,477.50, warrants no interference in the peculiar facts and circumstances of this case.
26. The record shows that the 1<sup>st</sup> respondent, who had to pay the 1<sup>st</sup> instalment of Rs. 65,492.50 by 4<sup>th</sup> October, 1989, did pay the amount on or before the stipulated date. The 2<sup>nd</sup> instalment of Rs. 1,30,985/- was due by 4<sup>th</sup> January, 1990. Here, the 1<sup>st</sup> respondent committed a default in that the amount was paid after a delay of about three months. The record shows that this amount of Rs. 1,30,985/- was paid by the 1<sup>st</sup> respondent in three instalments on 2<sup>nd</sup> February, 1990, 3<sup>rd</sup> February, 1990 and 9<sup>th</sup> April, 1990. The Corporation accepted the delayed payment, possibly because the construction of the shops was not yet complete for the 1<sup>st</sup> Respondent to be placed in possession.
27. No show notice was issued to the 1<sup>st</sup> respondent either on the issue of cancellation of the allotment or forfeiture of the amounts already paid towards the 1<sup>st</sup> and 2<sup>nd</sup> instalments. No formal notice of cancellation of the allotment or forfeiture of the amounts was issued by the Corporation to the 1<sup>st</sup> respondent. At the same time,

the 1<sup>st</sup> respondent was not in possession of Shop No. 1 despite the acceptance of the 2<sup>nd</sup> instalment.

28. But even the 1<sup>st</sup> respondent instituted the petition after some delay. The 1<sup>st</sup> respondent should have either immediately, or at least within a reasonable time, challenged the Corporation's action and sought relief for possession of Shop No. 1. However, the 1<sup>st</sup> respondent chose to wait until the Corporation issued a fresh advertisement and held a fresh auction sometime in 1997-98. Pursuant to the fresh advertisement and auction, the appellant was allotted Shop No. 1 on 27<sup>th</sup> March, 1998, against full payment. It was only at that stage that the 1<sup>st</sup> respondent chose to institute a writ petition, and without questioning the fresh advertisement and auction, sought a writ of mandamus to be placed in possession of Shop No. 1.
29. In these circumstances, we agree with Mr Allam, learned senior counsel for the petitioner, that the discretionary relief of a writ of mandamus should not have been granted to the 1<sup>st</sup> respondent. He submitted that, during the delay, the appellant's rights crystallised. Therefore, under the doctrine of laches, it would not be equitable to disturb the appellant's possession of over 30 years, particularly as there was no fault attributable to the appellant.
30. In our judgment, the interest of justice would be best met if the learned Single Judge's order is appropriately modified. Considering the issue of laches qua the appellant, the relief of

mandamus granted in favour of the 1<sup>st</sup> respondent will have to be set aside and is hereby set aside.

31. However, at the same time, we see no justification in the Corporation forfeiting the amount already deposited by the 1<sup>st</sup> respondent, particularly when the Corporation failed to place the 1<sup>st</sup> respondent in possession of the Shop No.1 after accepting the amount towards the 2<sup>nd</sup> instalment, though the same was paid after some marginal delay. Besides, the forfeiture was not preceded by even a minimum compliance with principles of natural justice and fair play. Accordingly, the direction of quashing the forfeiture and refunding the amount paid by the 1<sup>st</sup> respondent together with interest at the rate of 6% per annum deserves to be sustained.
32. Incidentally, we note that the Corporation, and particularly the 5<sup>th</sup> respondent, never chose to challenge the learned single judge's impugned order directing the allotment of shop no. 1 to the 1<sup>st</sup> respondent, or the refund of the amounts paid by the 1<sup>st</sup> respondent with interest @ 6% per annum. The Corporation or the 5th Respondent cannot now challenge this direction in this appeal. In any event, for reasons discussed earlier, no case is made out to interfere with the direction for a refund after the modification indicated earlier.
33. Accordingly, we partly allow this appeal by modifying the impugned order to the above effect. In terms of the modified order, we set aside the direction for the allotment of Shop No. 1 to the 1<sup>st</sup> respondent at his option, and declare that the allotment

of Shop No. 1 in favour of the appellant is legal and proper, and is not liable to be disturbed. This will, of course, not preclude the Corporation from taking any action against the appellant in the event of any breach of the terms and conditions of the allotment or of the terms and conditions contained in the agreement dated 12<sup>th</sup> March, 1999.

34. Further, we direct the Corporation, i.e., the respondent No. 5 herein, to refund the 1<sup>st</sup> respondent the sum of Rs.1,96,477.50, together with interest at 6% per annum, with effect from 1<sup>st</sup> April, 1998 (since the allotment of Shop No. 1 was made to the appellant herein with effect from 27<sup>th</sup> March, 1998) until the date of actual refund, which shall be within two (2) months from today, in terms of the order made by the learned Single Judge.
35. The 5<sup>th</sup> respondent must either pay this amount to the 1<sup>st</sup> respondent through regular banking channels if such details are supplied by the learned counsel for the 1<sup>st</sup> respondent to the 5<sup>th</sup> respondent within 15 days from today, or otherwise, the 5<sup>th</sup> respondent must deposit this amount in this Court within 2 months from today after giving due intimation to the learned counsel for the 1<sup>st</sup> respondent.
36. Upon deposit, the learned counsel for the 1<sup>st</sup> respondent must give identity and bank details to the Registry of this Court so that the Registry can transfer this amount to the 1<sup>st</sup> respondent directly through regular banking channels.
37. Mr Gadodia submits that he is not sure whether the refund amount directed by the learned Single Judge in the impugned

order dated 2<sup>nd</sup> May, 2007, has already been paid. Accordingly, we clarify that the issue of refund will arise only if the amount has not already been refunded by the 5<sup>th</sup> respondent to the 1<sup>st</sup> respondent. If the amount has already been refunded, the 1<sup>st</sup> respondent must file an affidavit of compliance, together with details of the payments made, so that there is no question of any party alleging non-compliance. This order does not require the 5<sup>th</sup> respondent to make refunds twice.

38. The appeal is partly allowed to the above extent without any order for costs. I.As., if any, will not survive the disposal of this appeal and are consequently disposed of.

**(M. S. Sonak, C.J.)**

**(Rajesh Shankar, J.)**

**13<sup>th</sup> May, 2026**  
**Sanjay/Rohit**  
**Uploaded on 15.05.2026**