

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.851 of 2014
IN
Civil Writ Jurisdiction Case No. 5709 of 2014

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Savitri Devi, W/o Late Raj Kumar Gadiya, resident of Village- Purnahiya
Ghorasahan, P.O.- Ghorasahan, P.S.- Ghorasahan, Distt.- East Champaran
(Motihari).

.... Appellant/s

Versus

1. The State of Bihar through the District Magistrate, East Champaran at Motihari
2. The District Magistrate, East Champaran at Motihari
3. The District Transport Officer, East Champaran at Motihari
4. The District Transport Officer-cum-Licensing Authority, East Champaran at
Motihari

..... Respodnents-Respondents 1st Set.

5. The Bharat Petroleum Corporation Ltd. through the Chairman-cum-Managing
Director, Mumbai
6. The Territory Manager (Retail), Bharat Petroleum Corporation Ltd., Barauni

Respondents 2nd Set.

7. M/s Bharat Service Centre through its Proprietor namely Rajendra Kumar
Bhartia, S/o Late Raghunath Bhartia, Purnahiya, Ghorasahan, P.S.- Ghorasahan,
Block- Ghorasahan, Distt.- East Champaran

.... Writ petitioner- Respondent 3rd Set.

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Appearance :

For the Appellant : Mr. Sunil Kumar Verma, Advocate
Mr. Krishna Prasad, Advocate
Mr. Suman Kumar Verma, Advocate

For the Respondents 1 to 4 : Mr. Abbas Haider, S.C.16
Mr. Ravish Chandra, A.C. to S.C.-16

For the respondents 5 and 6 : Mr. Madhuresh Prasad, Advocate

For the respondent No.7 : Mr. N. K. Agrawal, Senior Advocate
Mr. Sanjeet Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 17-03-2015

This appeal is preferred with leave, against the order dated 31.03.2014 passed by the learned Single Judge in CWJC No.5709 of 2014.

Briefly stated, the facts are that the 7th respondent took the land of the appellant on lease and established a Petroleum Outlet at Ghorasahan of East Champaran District. The lease expired in the year 1997. Thereafter the authorisation for running the Petroleum Outlet was being renewed, despite the objection of the appellant or her husband.

The 7th respondent filed the writ petition challenging the action of the District Transport Officer, East Champaran-the 4th respondent herein, stating that he is refusing to counter sign the challan for payment of renewal fee. The appellant herein, was not impleaded as a party in the writ petition. The 4th respondent stated that on account of objection raised by the appellant herein, the renewal application is not being considered. The learned Single Judge allowed the writ petition directing the 4th respondent to counter sign the challan and to take steps for renewal of the licence.

It was also directed that until the final orders are passed by the 4th respondent, he shall not prevent the 7th respondent from running the Petroleum Outlet.

The appellant contends that on the objection raised by her, the licensing authority, the 3rd respondent has, in fact, passed an order refusing to renew the licence and suppressing that fact, the writ petition was filed.

Heard Sri Sunil Kumar Verma, learned counsel for the appellant, Sri Abbas Haider, learned Standing Counsel-16, for the respondents 1 to 4, Sri Madhuresh Prasad, learned counsel for the respondents 5 and 6, and Sri N. K. Agrawal, learned senior counsel for the respondent no.7.

It is not in dispute that the 7th respondent established the Petroleum Outlet on the land owned by the appellant. The renewal of licences or authorisation is necessary from the authorities of the State Government and the Oil Company respectively. One of the essential conditions is that the lease in respect of the land must be renewed. The appellant has raised objection for the renewal of the lease of the 7th respondent and filed representations before various authorities stating that the lease expired long back. On 22.02.2014 itself, the 4th respondent passed an order mentioning that the licence of the 7th respondent cannot be renewed on account of the objection



raised by the appellant. That order has not been challenged so far. The 7th respondent did not make any mention of the order dated 22.02.2014 in the writ petition. The plea that he was not served with the said order cannot be accepted. Even otherwise, once the competent authority has passed an order refusing to renew the licence, the question of anyone, being required to accept the renewal fee, does not arise.

We are of the view that in the available facts and circumstances of the case, the 7th respondent cannot be granted any renewal, of the licence. The learned counsel for the Oil Company has brought to our notice that the 7th respondent has chosen an alternative land and the same has been approved by the Company. The existing Petroleum Outlet established on the land of the appellant can be shifted to the new location, chosen by the 7th respondent.

We, therefore, dispose of the appeal by modifying the order of the learned Single Judge to the effect that the 7th respondent shall be entitled to carry on the business only till 31st of July, 2015, subject to payment of all arrears of rent to the appellant within four weeks from today, and payment of renewal fee to the concerned authority. Under no circumstances, the 7th respondent shall be entitled to continue as the lessee over the land of the appellant or to

run the Petroleum Outlet thereon, beyond 31st July 2015. The concerned authorities of the State Government shall take necessary steps to expedite the shifting of the Petroleum Outlet.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

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Sunil/-

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