

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12619 of 2014

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Yogeshwar Prasad son of Sri Sheetal Prasad, resident of village-Govindpur,
P.S.- Fatuha, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Forest Department, Government of Bihar, Patna.
3. The Conservation of Forest- cum- Prescribed Authority, Patna Circle,
Patna Joint Forest Bhawan, Nehru Nagar, Patna.
4. The Divisional Forest Officer, cum Licensing authority, Patna Division,
Patna, Nehru, Nagar.
5. Ram Janam Mistry Son of Late Budhan Mistry, resident of village-
Govindpur, P.S.- Fatuha, District- Patna.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Udit Narayan Singh, Advocate
Mr. Ganjendra Kumar Singh, Advocate
For the Respondent/s : Mr. Kumar Alok, SC-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 02-02-2015 Heard Mr. Udit Narayan Singh, learned counsel for the
petitioner, learned counsel for the State and Mr. Gajendra Pratap
Singh, learned counsel appearing for the private respondent.

The petitioner is aggrieved by the order dated 16.5.2014
passed by the Conservator of Forest-cum-prescribed authority the
respondent no. 3 in Appeal Case No. 3 of 2013 whereby the
appellate authority while allowing the appeal preferred by the
private respondent has required the petitioner to file any
application for shifting the place of saw mill.

The fact of the case briefly stated is that the petitioner
and the private respondent formed a partnership firm under a deed



of partnership executed on 16.5.1986 for carrying on trade of purchase and sale of timber and fire wood of all kinds as also for carrying into trading business. The partnership was to be carried out in the name of M/s Jugeshwar Prasad Vijay Kumar Timber Merchant at Fatuha in the district of Patna. Clause-7 of the partnership provided that the private respondent would be represented by his son for the management of the partnership business. The partnership firm applied for a license under the provisions of the Bihar Saw Mill Regulation Act, 1990 and the Rules framed thereunder and were granted license bearing License No. 54 of 1994, a copy of which is placed at Annexure-2 to the writ application. The firm carries on its business on the land bearing Khata No. 132, Plot No. 44, Thana No. 16 at Fatuha in the district of Patna. The petitioner filed an application before the licensing authority for shifting the place of the saw mill from its present location at Plot No. 44 of Khata No. 132 to Plot No. 167 of Khata No. 52. The application filed by the petitioner was allowed by the licensing authority vide order passed on 4.1.2011 placed at Annexure-3 and which was questioned by the private respondent before the prescribed authority i.e. the Conservator of Forest in Appeal No. 3 of 2013 and the appellate authority by the impugned order bearing Memo No. 844 dated 17.5.2014 has allowed the appeal with a liberty to the petitioner and the private respondent

to file any application for change of the saw mill and being aggrieved the petitioner is before this Court.

I have heard learned counsel for the parties and I have perused the materials on record. It is an admitted position that the license is in the name of the partnership firm and the deed of partnership present at Annexure-6 and paragraph-3 thereof provides that the partners would be at liberty to change the nature of business as also the place of business with mutual consent. This Clause of the partnership deed is binding on the petitioner as well as the private respondent and in this background of the matter, the order passed by the appellate authority requiring the petitioner and the private respondent to file a joint application in case they want to change the location of the saw mill, suffers from no infirmity warranting any interference.

For the reasons aforementioned, the writ petition as well as the interlocutory application bearing I.A. No. 5898 of 2014 are disposed of.

(Jyoti Saran, J)

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