

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1490 of 2012

IN

Civil Writ Jurisdiction Case No. 3686 of 2012

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Satya Narayan Prasad S/O Late Badri Prasad Resident Of Purana Thana Road,
Dumraon, Post Office And Police Station Dumraon, District Buxar.

.... Appellant

Versus

1. The State of Bihar.
2. The District Magistrate, Buxar.
3. The Sub Divisional Officer, Dumraon, District Buxar.
4. The Deputy Collector Land Reforms, Dumraon, District Buxar.
5. The Circle Officer, Dumraon, District Buxar.
6. The Indian Oil Corporation Limited Having Its Registered Office At G-9, Ali Yavar Jang Marg, Bandra (East) Mumbai-400057.
7. The Senior Divisional Retail Sales Manager, Marketing Division, Patna Divisional Officer, Indian Oil Corporation Limited, Block-A Mauryalok Complex (3rd Floor) Dak Bunglow Road, Patna-800001.
8. Pratap Narayan Gupta @ Mantoo Sah S/O Late Kedar Prasad @ Kedar Nath Gupta Resident Of Gola Road, Dumraon, Post Office And Police Station Dumraon, District Buxar.
9. Kumar Shushant S/O Pratap Narayan Gupta Resident Of Gola Road, Dumraon, Post Office And Police Station Dumraon, District Buxar.

.... Respondents

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Appearance :

For the Appellant/s : Mr. S S Dwivedi, Sr. Advocate

Mr. Nazmul Hoda, Advocate

For the Respondent/s : Mr. Sunil Kumar Mandal, SC 24

For IOC Limited : M/s Anil Kumar Sinha and Amlesh Kr. Verma

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 23-01-2015

The petitioner is the son of late Badri Prasad, whereas Kedar Prasad and Dwarika Prasad are brothers of late Badri Prasad. The 8th respondent Pratap Narayan Gupta is the son of late Kedar

Prasad and the 9th respondent Kumar Sushant is his son. In other words, the 8th respondent is the cousin of the petitioner.

Respondent no. 9 was granted letter of intent by the Indian Oil Corporation Limited, the 6th respondent in respect of lands of survey plot nos. 404, 405, 406, khata no. 9 of village Dumraon, district Buxar on 12.7.2011 enabling him to establish a petroleum outlet. The petitioner raised an objection over that. According to him, no partition has taken place in the family, and there was no basis for respondent nos. 8 and 9 to claim absolute rights over the lands. With this background, he filed CWJC No. 3686 of 2012 challenging the letter of intent.

Respondent nos. 8 and 9 opposed the writ petition. They pleaded that the partition has taken place in the family and the mutation in revenue records has been effected, in their favour in respect of the lands in question. They pleaded that though an appeal against the order of mutation effected in their favour was set aside through order dated 4.3.2013, it was restored on 1.6.2013, and the appeal preferred by the appellant against the said order was dismissed on 4.1.2014. They have also stated that the petitioner filed Title Suit No. 569 of 2013 in the court of Sub Judge III, Buxar, for partition.

The learned Single Judge has dismissed the writ petition through order dated 30th July, 2012. Hence, this Letters Patent Appeal.

Heard Sri S S Dwivedi, learned senior counsel for the appellant and Sri Sunil Kumar Mandal, learned counsel for the respondents.

The grievance of the petitioner is about the grant of letter of intent issued by the Indian Oil Corporation in favour of respondent no.9. In fact, he raised the question of title in respect of the

lands. As on the date of the grant of letter of intent, mutation effected in favour of respondent no.9. Though it was cancelled subsequently it has been restored. More than all that, the petitioner himself filed Title Suit No. 569 of 2013 for the relief of partition. He has to await the outcome thereof. In case the trial court finds that no partition has taken place among the parties, a preliminary decree has to be passed, determining the shares. In the course of division of the property into shares, the relevant factors have to be taken into account, and equities have to be worked out. If, on the other hand, it is held that there was prior permission, the remedy would be elsewhere. It goes without saying that the mere grant of letter of intent in favour of a co-parcener would not defeat the rights of other co-parcener in the event of preliminary decree being passed.

Under these circumstances, we do not find any basis to interfere with the order passed by the learned Single Judge in CWJC No. 3686 of 2012.

We dismiss the appeal with the above observations.

There shall be no order as to costs.

Interlocutory Application, if any, shall stand disposed of.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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