

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2884 of 2014

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Renu Singh W/o Shri Ranjit Singh, D/o Late Gopal Singh R/o Village - Mankapur
Bazar, P.S. Pipra Kothi, District - East Champaran, Motihari

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Forest Department, Govt. Of Bihar,
Patna
2. The Regional Conservator of Forest, Muzaffarpur.
3. The Divisional Forest, Motihari, Forest Division, Motihari
4. The Area Officer of Forest, Motihari Forest Area, Motihari

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4453 of 2014

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Nagendra Singh son of Ganga Singh, resident of village- Pipra Kothi, District- East
Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Environment and Forest, Govt. of Bihar, Patna
3. The Principal Chief Conservator of Forest, Bihar, Patna
4. The Regional Chief Conservator of Forest, Muzaffarpur
5. The Divisional Officer-cum-Licency Officer, Forest Division at Motihari,
District- East Champaran

.... Respondent/s

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Appearance:

(In CWJC No. 2884 of 2014)

For the Petitioner/s : Mr. SHARDA NAND MISHRA

For the Respondent/s : Mr. KUMAR PRIYA RANJAN, SC-23

(In CWJC No. 4453 of 2014)

For the Petitioner/s : Mr. AKHILESHWAR KUMAR SHRIVASTVA

For the Respondent/s : Mr. MANOJ KR. AMBASTHA

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-05-2015

Heard Mr. Sharda Nand Mishra and Mr. Akhileshwar Kumar

Shrivastva, learned counsel for the two writ petitioners, Mr. Mithilesh

Prasad Singh, Assisting Counsel to SC-23 for the State in CWJC No.

2884 of 2014 and Mr. Manoj Kumar Ambastha, learned G.P. 24 for the State in CWJC No. 4453 of 2014.

Since the two writ petitions raise a common issue of fact and law and the reliefs are also overlapping hence they have been heard together and are being disposed of by this common judgment.

Although the writ petitioners pray for a direction to the statutory authorities under the Bihar Saw Mill Regulation Act, 1990 (hereinafter referred to as 'the Act') and the Rules framed thereunder to include their respective names as a licensee in License No. 291 of 1997 which has been issued in favour of M/s. Vijay Industries, Pipra Kothi, District-East Champaran.

It is not in dispute rather admitted that the saw mill license bearing License No. 291 of 1997 was issued in favour of the father of writ petitioner Renu Singh. The licensee Gopal Singh expired on 14.6.2012 and the dispute has arisen thereafter. Whereas the petitioner in CWJC No. 2884 of 2014 claims transfer of license on the basis of inheritance, the writ petitioner Nagendra Singh who happens to be the nephew of the licensee claims a right to transfer of license on the basis of a partnership deed executed between the license holder Late Gopal Singh with Nagendra Singh on 21.11.2007, a copy of which is placed at Annexure-A to the counter affidavit filed in CWJC No. 2884 of 2014 and Annexure-1 to the other writ petition. Writ petitioner Nagendra Singh also claims relief on the basis of a



registered will stated to have been executed by the deceased licensee on 21.11.2007 placed at Annexure-2 to CWJC No. 4453 of 2014. Although the license holder expired in 2012 but the license has been issued even thereafter and until 2014 albeit in the name of the deceased license holder. It is not in dispute that though the writ petitioner Nagendra Singh claims a transfer in his favour on the basis of partnership deed and the will but the will is yet to be probated. It is not in dispute that except the writ petitioner Renu Singh, the daughter of the deceased license holder there is no other person who has come forward to claim transfer on the basis of inheritance. It is considering the rival contentions advanced on behalf of the parties that this Court vide order passed on 15.04.2015 required an answer from the respondents on the following issues:

- “(a) Whether the legal heir of the deceased- licensee can claim transfer of the licence by way inheritance and under which provision.
- (b) Whether the licence granted under the Saw Mill Regulation Act, 1990 and the rules framed thereunder can pass over to the legal heir or any other person with the permission of the Forest Department.
- (c) Whether the partnership deed executed on 21.11.2007 was submitted by the deceased- licensee Gopal Singh for modification of the licence in the name of partnership and was acted upon by the Licensing Authority.

(d) Whether the Will present at Annexure-2 of C.W.J.C. No. 4453 of 2014 has been probated.”

A supplementary counter affidavit has been filed in the two writ petitions and for the sake of convenience, I would be referring to the supplementary counter affidavit filed in CWJC No. 4453 of 2014. In response to the claim of inheritance made by the writ petitioner Renu Singh, the respondents in paragraph-4 have referred to a resolution of the Government in its Department of Forest dated 30.8.2010 bearing Resolution No. 2675 holding that a transfer by way of inheritance has been accepted. Since the claim put forth by the writ petitioner Nagendra Singh was on the basis of partnership deed hence this Court framed issue no.(c) on this aspect and the response can be found in paragraph-6 of the supplementary counter affidavit. It has been stated that no such partnership deed was submitted by the licensee before the licensing officer rather it is for the first that the writ petitioner Nagendra Singh produced the same before the licensing officer on 9.7.2012 after the death of Gopal Singh, the licensee on 15.6.2012 and since a creation of partnership would amount to parting of the control by the licensee hence it is impermissible. This stand of the respondents would put to end the claim of the writ petitioner Nagendra Singh and even the will would not come to his rescue especially where any such transfer has been

prohibited under Section 7(5)(a) of 'the Act'.

In the circumstances discussed, there is only one claimant to the transfer of the license i.e. the writ petitioner Renu Singh whose claim by way of inheritance has not been disputed rather a report has been submitted by the Range Officer on 24.12.2012 before the Divisional Forest Officer, a copy of which is placed at Annexure-6 to CWJC No. 2884 of 2014 recommending the transfer of license in her favour.

In result this Court while rejecting the claim made by the writ petitioner Nagendra Singh would direct the licensing authority-cum-the Divisional Forest Officer, Motihari Forest Division, Motihari to take appropriate steps for inclusion of the name of writ petitioner Renu Singh in place of her father Late Gopal Singh in License No. 291 of 1997 and since the writ petitioner Renu Singh has already lost five valuable months of the year 2015, any such action be taken by the licensing authority within four weeks of receipt / production of a copy of this order.

The two writ petitions are disposed of accordingly.

(Jyoti Saran, J)

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