

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18377 of 2008

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Archana Singh, W/o Shri Sanjay Kumar Singh, resident of Vill. Madhukarchak, P.S. Biharigang, Dist. Madhepura.

.... Petitioner/s

Versus

1. The Union of India through Ministry of Petroleum & Natural Gas, New Delhi.
2. The Indian Oil Corporation Ltd., a Government of India Company incorporated under the provisions of Section 617 of the Companies Act, 1956 having its registered office situated at G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai- 400 051 through its Director (Marketing).
3. The General Manager-cum-State Level Coordinator, Bihar State office, Indian Oil Corporation Ltd. (Marketing Division), 5th Floor, Lok Nayak, Jai Prakash Bhawan, Fraser Road, Town & Dist. Patna.
4. The Divisional Manager, Begusarai Divisional Office, Indian Oil Corporation Ltd. (Marketing Division), B-70, Barauni Refinery Township, Dist. Begusarai.
5. The Sr. Divisional Retail Sales Manager, Begusarai Divisional Office, Indian Oil Corporation Ltd. (Marketing Division), B-70, Barauni Refinery Township, Dist. Begusarai.
6. Debesh Kumar Singh, S/o Shri Brajendra Narayan Singh, resident of Vill. Mohanpur, P.S. Bihariganj, Dist. Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
For the I.O.C. : Mr. Anil Sinha, Adv.
For the Resp. No.1 : Mrs. Kanak Verma, C.G.C.
For the Resp. No.6 : Mr. Mrigank Mauli, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

8 06-01-2015 Heard learned counsel for the parties as with regard to the following prayer made in this writ application:-

- "1(i) *For issuance of appropriate writ(s) for quashing of the Letter of Intent dt. 19.06.2008 issued in favour of the Respondent No.6 by the Respondent No.2 for proposed M/s Kisan Seva Kendra (Retail Outlet) at Makdi, District- Madhepura as being wholly arbitrary, illegal & discriminatory;*
- (ii) *For issuance of appropriate writ(s) for quashing of*

the order of Selection of the Respondent No.6 (a Dealer of M/s Kisan Seva Kendra, Makdi, District Madhepura) as being wholly arbitrary, illegal & discriminatory as he is not eligible for being considered in terms of the Advertisement having offered disputed land under litigation proposed for the site of Retail Outlet;

- (iii) *For issuance of appropriate writ(s) to consider the Petitioner being the 2nd in the Panel for appointment as a Dealer of M/s Kisan Seva Kendra, Makdi, District Madhepura as the Petitioner fulfilled all the requirements for being considered;*
- (iv) *For a direction to the Respondents for issuance of Letter of Intent in favour of the Petitioner after consideration for appointment as Retail Outlet under the Scheme "Kisan Seva Kendra"; and for any other relief(s) for which the Petitioner may be found entitled to in the facts & circumstances of the present case."*

2. Learned counsel for the petitioner, at the outset, in support of the aforementioned prayer, has referred to an order of this Court dated 11.1.2010 which, for the sake of clarity and convenience, is quoted hereinbelow:-

"After having heard all the parties to the dispute, the Court is of the opinion that the final word on the selection for the Kishan Seva Kendra which is the subject matter of dispute cannot be recorded or ought not to be recorded or expressed at this stage. Any observation of the Court may have reflection on the Title Suit No. 58 of 2008 pending in the court of Civil Judge Sr. Division, Madhepura. The suit has been instituted by the petitioner and the Oil Company and the respondent no.6 are the parties there. The Court would like

to await the outcome of the suit in question in which the prayer for injunction has also been declined.

In view of above, this writ application is adjourned with liberty to the parties that as and when a decision is rendered in the Title suit they may have freedom to make a mention for listing of the case for final disposal. Pendency of the writ application will not come in the way of the Sub-Judge in deciding the issue which ought to be decided expeditiously on due cooperation of the parties to the dispute."

3. When this Court had tried to know as to the present stage of the suit, both learned counsel for the petitioner as also learned counsel for the respondent no.6 have informed that the suit is still pending.

4. Mr. Mrigank Mauli, learned counsel for the respondent no.6 in fact has gone to submit that after injunction in favour of the petitioner was refused, she had also filed miscellaneous appeal which was also dismissed and, as such, the case of the petitioner prima facie has not found favour from the civil court.

5. Mr. S.D. Sanjay, however, seeks to clarify that the despite refusal of injunction and its affirmance by this Court in the appeal, the petroleum outlet allotted in favour of the respondent no.6 has not yet become functional.

6. In the considered opinion of this Court, the allotment of petroleum outlet in favour of the respondent no.6 will



depend on the outcome of the suit, inasmuch as, it is the petitioner who claims to be the owner of the land, in question, on which the respondent no.6 claims to have set up the petroleum outlet after being declared successful in the selection process conducted by the Indian Oil Corporation. In fact, the respondent no.6 also has come out to say that he had purchased the land, in question, from one of the branches of the owner and, therefore, the sale deed which was subsequently executed in favour of the petitioner on 31.12.2007 was itself sham and had conferred no title on the petitioner.

7. Mr. S.D. Sanjay, learned senior counsel appearing on behalf of the petitioner, however has sought to clarify that not only the petitioner had an agreement prior to the sale deed executed in favour of the respondent no.6 on 14.12.2006 but, in fact, the vendor of the respondent no.6 had no right, title and interest to convey the land, in question, by way of sale to the respondent no.6.

8. In the considered opinion of this Court whatever issue has been raised by the petitioner while seeking right, title and interest in the pending civil suit will be the deciding factor as to whether the allotment of the respondent no.6 for running the petroleum outlet will survive. It is not in doubt that the petitioner



for this very purpose has filed a title suit being Title Suit No. 58/2008 which is pending before the Civil Judge, Sr. Division, Madhepura. In the event, the petitioner succeeds in the aforesaid title suit, the allotment of petroleum outlet in favour of the respondent no.6 will automatically go away, inasmuch as, he will be left with no piece of land on which such petroleum outlet could be made operational through the agency given by the Indian Oil Corporation. On the other hand, if the title suit filed by the petitioner fails, the petroleum outlet allotted to the respondent no.6 shall remain without any further impediment and could be very well made functional. In that view of the matter, no useful purpose will be served in keeping this writ application pending when every thing will turn only on the result of the pending Title Suit No. 58 of 2008.

9. This Court would, accordingly, dispose of this writ application with a direction to the Civil Judge, Sr. Division, Madhepura to ensure that the Title Suit No. 58 of 2008, already pending for a period over six years, should be disposed of expeditiously.

(Mihir Kumar Jha, J)

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