

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13935 of 2013

Barun Kumar @ Barun Mandal Son Of Gopal Mandal Resident Of Village-
Gandhipur, P.S.- Bariyarpur, District- Munger

.... Petitioner/s

Versus

1. The State Of Bihar through the Commissioner cum Secretary Forest, Bihar Patna
2. The Divisional Forest Officer, Munger Forest Division Munger
3. The Area Forest Officer, Forest Area Munger
4. The District Magistrate cum Collector Munger
5. The Sub-Divisional Officer, Sadar Munger
6. Devi Prasad Sharma Son Of Late Nand Kishore Sharma Resident Of Village-
Gandhipur, P.S.- Bariyarpur, District Munger. Proprietor Adarsh Sharma Furniture
Saw Mills Gandhipur P.S.- Bariyarpur, District- Munger

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. BHARAT LAL
For thes,, Mrs. Mohini Kumari AC to SC 2
For respondent no.6 Mr. Tarun Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 16-03-2016

Heard Mr. Lal for the petitioner, Mr. Sinha for respondent no.6 and
Mrs. Mohini Kumari, AC to SC-2 for the State.

A counter affidavit has been filed on behalf of respondent no.2.

The petitioner claims himself the resident of the locality/Mohalla
where respondent no.6 operates a saw mill under a licence. He filed a writ
petition in the shape of public interest litigation against the operation of the saw
mill in the Mohalla/locality raising diverse grievances. The writ application being
CWJC No. 7833 of 2011 was considered by a bench of this Court and, by order
dated 19.03.2012 (Annexure-9), the same was disposed of directing the
respondent District Magistrate to consider the representation of the petitioner. The
District Magistrate in the light of the order of this Court instituted Misc. Case No.



06 of 2012-13. No opportunity of hearing appears to have been given to respondent no.6. The District Magistrate found that the licensing authority of the saw mill was the Divisional Forest Officer(DFO) who was requested to consider the change/relocation of the saw mill considering the allegation that the saw mill was in the midst of dense population as also that the boundary was incorrectly mentioned in the licence. Aggrieved thereby the respondent no.6 filed a writ petition vide CWJC No. no. 13341 of 2013 in which no relief was granted considering the fact that no action for shifting/relocation of the saw mill was taken by the Divisional Forest Officer(DFO).

The present application seeks a direction for implementation of the order passed by the District Magistrate (Annexure-10). Firstly, on going through the order passed by the District Magistrate, it does not appear that any positive direction was issued. The DFO, being the licensing authority, was requested/advised by the District Magistrate to consider the case of the petitioner and take appropriate steps for shifting/transfer of the saw mill. Secondly, in the counter affidavit filed by respondent no.2 a copy of the report submitted by the officer(s) of the Forest Department to the DFO has been enclosed. On perusal whereof it appears that as advised by the District Magistrate, the DFO got the inquiry made and found that on account of disputes between the two parties, the matter was being blown out of proportion which is not sustainable. Relevant consideration is manifest from perusal of the said report. It was held as a malafide action on the part of the writ petitioner.

Mr. Sinha, appearing for respondent no.6, has stated that a litigation with respect to the subject land on which the saw mill is being run is pending in court between the petitioner and respondent no.6. The report (Annexure-E) also indicates that owing to personal dispute/feud between the two parties, the

petitioner is raising a grievance with respect to the running of the saw mill under a valid licence having correct boundary disclosed/ set out.

Having given anxious consideration to the rival submissions, the Court is not satisfied that a case for interference in the writ jurisdiction is made out by the petitioner. The application is dismissed.

(Kishore Kumar Mandal, J)

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