

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17581 of 2016

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1. M/s Anand Kumar & Brothers, Piro, P.S. Piro, District Bhojpur, a Partnership Firm through its Partner Prasuram Singh son of late Ganga Singh, resident of village Piro, P.S. Piro, District Bhojpur
 2. Sanjay Kumar Singh, son of late Ganga Singh, resident of village Piro, District Bhojpur
 3. Ajay Kumar Singh, son of late Ganga Singh, resident of village Piro, District Bhojpur
 4. Vijay Kumar Singh, son of late Ganga Singh, resident of village Piro, District Bhojpur

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Environment & Forest Department, Govt. of Bihar, Patna
2. The Principal Chief Conservator of Forest, Bihar, 5th Floor, Aranaya Bhawan, Sheikhpura, Patna- 800014
3. The Conservator of Forest, Patna Circle, Patna
4. The Licensing Officer cum Divisional Forest Officer, Bhojpur Forest Division, Ara
5. Geeta Devi wife of late Anand Kumar Singh, resident of village Piro, P.S. Piro, District Bhojpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Adv.
For the Respondent/s : Mr. Anant Prasad Singh, SC-15
Mr. Sanjay Kumar, AC to SC-15
For respondent no.5 : Mr. N.K.Agrawal, Sr.Adv.
Mr. Prabhat Ranjan Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-02-2017

Heard Mr. Vinay Mistry, learned counsel for the petitioner,
Mr. Anant Prasad Singh, SC-15, for the State and Mr. N.K.Agrawal,
learned Senior Counsel, who appears for respondent no.5 alongwith
Mr. Prabhat Ranjan Singh.

In the nature of the order which this Court proposes to pass,
it will not be required to delve deep into the merits of the case.



The four petitioners, who claim to be partners in the licence granted under the Bihar Saw Mill (Regulation) Act, 1993 (hereinafter referred to as 'the Act') and the Rules framed thereunder, are aggrieved by the order bearing Memo No. 1947 dated 29.9.2016 passed by the Licensing Officer cum Divisional Forest Officer, Bhojpur Forest Division, District Bhojpur at Arrah, whereby orders have been issued to transfer the licence bearing No. 5/1994 standing in the name of M/s Anand Kumar & Brothers in favour of private respondent no.5.

While it is the case of the petitioners that the licensee under 'the Act' is the partnership firm formed by the brothers which is inclusive of the four petitioners herein and late husband of respondent no.5, as is reflected from the name of the licensee occurring on the application so filed before the Licensing Authority, a copy of which is placed at Annexure 14, which reads 'Anand Kumar & Brothers' as also in the renewal granted thereafter, copies of which are present at Annexures 2, 3 and 4, the contest raised by the private respondent, who is the widow of fifth brother, Anand Kumar Singh, is that licence belonged to her late husband and thus, it should be transferred in her name. The contest drawn has resulted in favour of the private respondent and feeling aggrieved the petitioners are before this Court.

Mr. Mistry, learned counsel for the petitioners, does not



dispute that the order put to challenge before this Court is appealable under section 12 of 'the Act' and he submits that the licence has since been renewed in the name of the private respondent, a copy of which is enclosed at Annexure 2 to I.A.No. 9803/2016, which is in the name of Smt. Geeta Devi, wife of late Anand Kumar Singh.

Although the period of limitation so provided under section 12 of 'the Act' grants 30 days to the aggrieved person to prefer an appeal but considering that the petitioners were pursuing their remedy before this Court through the present writ petition, I am persuaded to condone the delay and permit the petitioners to exhaust the appellate remedy so available to them under 'the Act' by filing a statutory appeal before the appellate authority.

It goes without saying that should the petitioners prefer statutory appeal under section 12 of 'the Act' within a period of six weeks from today together with an application for condonation of delay, the appellate authority shall consider the appeal and dispose of the same on its own merits in accordance with law and after giving opportunity of hearing to the petitioners and the private respondent as well. The petitioners would also be at liberty to pray for interim relief in the appeal.

The order of status quo passed on 20.1.2017 shall continue until disposal of the stay application.



It is further directed that should the petitioners fail to avail of the liberty granted by this Court within the period stipulated, the interim protection granted hereinabove shall be recalled.

I also deem it necessary to mention here that this Court has not expressed any opinion as regarding inter se merits of the case.

The writ petition and the interlocutory applications are accordingly disposed of with the liberty aforementioned.

Surendra/-

(Jyoti Saran, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.03.2017
Transmission Date	NA

