

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.793 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 13935 of 2013.

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

.... Petitioner / Appellant

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.

.... Respondents / Respondents

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Appearance:

For the Appellant/s : Mr. Prabhat Ranjan, Advocate.

For the Respondent/s : -----

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 04-05-2017 The only grievance canvassed before us in this Appeal filed under Clause 10 of the Letters Patent was that after orders were passed by this Court on 19.03.2012 in CWJC No. 7833/20111, the District Magistrate, Munger had considered the representation of the petitioner and vide his order and report dated 15.05.2013 the District Magistrate had made recommendations and had directed the Divisional Forest Officer to take action in the



matter.

It is alleged that the Divisional Forest Officer without taking any action has in fact refused to consider the report of the District Magistrate and did not pass any appropriate order on the same. *Inter alia* contending that in spite of the orders passed in CWJC No. 7833/2011 and in spite of the observations and recommendation made by the District Magistrate, the Divisional Forest Officer has not considered the claim of the petitioner. The Writ Petition was filed and the Writ Court after going through the record rejected the claim of the petitioner.

In this appeal again same grounds are canvassed and learned counsel invited our attention to the recommendation and the report submitted by the District Magistrate, Munger on 10.04.2013 and argued that this report has never been considered by the Divisional Forest Officer and the learned Writ Court also without adverting to consider this aspect of the matter dismissed the Writ Petition.

However, after hearing learned counsel for the State and learned counsel for the respondent no. 6, we find that under law the District Magistrate is not the statutory authority empowered to deal with the matter. It is the Divisional Forest Officer, who is only empowered to deal with the matter, and the



District Magistrate in his report and recommendation dated 10.04.2013 had only made certain observations and referred the matter to the Divisional Forest Officer. However, the Divisional Forest Officer took note of the earlier report (Annexure 'E') available on the record of the Writ Petition filed by the State Government and it was after evaluating these facts that the Writ Court has come to the conclusion and thereafter the *mala fide* actions on the part of the writ petitioner that there is a civil litigation with regard to the title of the land in question initiated at the instance of the respondent no. 6 and based on Annexure 'E' it was canvassed to the learned Writ Court that owing to personal dispute/feud between the parties the petitioner and the respondent no. 6 are raising a grievance with regard to running of the saw mill under a valid licence cannot be looked into. The learned Writ Court for the aforesaid reason refused to interfere into the matter.

We find no reason to make any indulgence into the matter. Once there was a dispute with regard to land in question and the report (Annexure 'E') clearly shows that the Divisional Forest Officer communicated the same and some recommendation has been made to the District Magistrate and the statutory authority finds that in a given circumstances the prayer for grant of licence cannot be considered, we find no error in the same



warranting reconsideration.

The appeal is therefore dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

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