

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1563 of 2016
IN
Civil Writ Jurisdiction Case No. 3345 of 2012**

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1. Rita Singh W/o Vinay Singh resident of Village- Kamsara, P.O.- K.T. Bharauli,
P.S.- Duraundha, District- Siwan.

.... Appellant/s

Versus

1. The Union of India through Secretary Ministry of Petroleum Oil and Natural Gas, New Delhi.
2. The Hindustan Petroleum Corporation Ltd., through its Chairman, 17, Jamshed Ji Tata Road, Mumbai.
3. The Senior Regional Manager (Retail, Hindustan Petroleum Corporation Ltd.) Lok Nayak Jai Prakash Bhawan, 6th floor, Dak Bunglow Chock, Patna.
4. The District Magistrate, Siwan at Siwan.
5. The Senior A.D.M. In charge Central Administrative Department at office of Collector, Siwan.
6. The Sub Divisional Officer, Maharajganj, Siwan.
7. The A.D.M. Land Reforms, Maharajganj, District- Siwan.
8. D.C.L.R. Land Reforms, Maharajganj, District- Siwan.
9. The Circle Officer, Daraundha, District- Siwan.
10. Smt. Bindu Shukla, W/o Tribhuwan Shukla, R/o Village- Baguchha, Block- Maharajganj, District- Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Prabhakar Singh, Advocate
For U.O.I.	:	Mrs. Kanak Verma, CGC
For the State of Bihar	:	Mr. Khurshid Alam, AAG-12
For Respondent No10	:	Mr. Dinesh, Advocate Mr. Satyendra Rai, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-08 -2017

Delay of 5 days in filing the appeal is condoned. I.A.

No.6550 of 2016 is allowed and disposed of.

Having heard learned counsel for the parties and on



going through the detailed materials available on record, we are of the considered view that in dismissing the writ petition only on the ground that there are disputed questions of fact, the learned writ court has committed grave error and, in fact, certain prejudice has been caused to the petitioner (appellant herein) because of the action of the Oil Company which we propose to deal in detail herein below.

Challenge in this appeal is made to an order passed by the learned Writ Court on 27.06.2016 in C.W.J.C. No. 3345 of 2012, whereby finding there to be certain dispute with regard to the land in question, the learned Writ Court has refused to interfere into the matter. The Hindustan Petroleum Corporation Limited (hereinafter referred to as the “Oil Company”) issued an advertisement calling for willing candidates to apply for grant of Petroleum outlet. The petitioner also carved out certain area in two plots, bearing plot nos. 3680 and 3695 and submitted their candidature. The petitioner after submitting the application, entered into correspondence with the Oil Company and the Company on 29th July, 2010 made a communication to the District Magistrate, Siwan under the heading of a ‘Subject N.O.C.’ for new retail outlet and by indicating particulars of two plots, bearing plot Nos. 3680 and 3695 sought for grant of N.O.C. for establishment of the retail outlet. Admittedly, both these plots bearing plot Nos. 3680 and 3695 were



tendered by the petitioner for establishment of the petroleum outlet. Thereafter, the records indicate that a map was approved and certified was submitted by the Revenue Officer, as is evident from the document available at page 45 of the paper book and based on the same, N.O.C. was issued by the Circle Officer on 12.08.2010 (Annexure-9). The same resulted in action being taken and after the aforesaid communication was made by the Circle Officer, the higher authorities vide Annexure-10 on 06.08.2010 and Annexure-10/1 on 25.08.2010 indicated their willingness and, in fact, issued the N.O.C. Based on the same, it is the case of the petitioner that a Letter of Intent was issued to the appellant, but subsequently on a complaint made by the private respondent, who was also an applicant, a committee was constituted to re-measure the area and based on the re-measurement, the appellant was informed vide Annexure-1 in the writ petition that the frontage of the land offered by the appellant is around 107 feet only. As such, the frontage is not as required under the advertisement i.e. 132 feet and, therefore, the appellant was directed to submit objection and, finally, when the Letter of Intent was withdrawn, the appellant challenged the same also by filing writ petition.

Be that as it may, having heard the learned counsel for the parties, we find that, originally, considering the NOC



submitted, Letter of Intent was issued to the petitioner, but after doing so, complaint of the private respondent was entertained and a three member committee was appointed to look into the matter and three member committee conducted spot inspection and measurement on 18.08.2011 and gave a report against the petitioner.

The grievance of the petitioner is twofold. The first one is that this committee only measured plot No. 3680 and did not measure the area available with the appellant in the other plot i.e. 3695 and the second objection was that this committee conducted its inspection behind the back of the petitioner and, therefore, the right of the petitioner to canvass his contention has been denied.

Learned counsel appearing for the Oil Company and respondent No.2 vehemently argued that once, based on the report of the three member committee, it was clear that the frontage was not as required under the advertisement, and when everything was done based on a report submitted by the three member committee, no indulgence into the matter is called for. We find on examination of the record that initially when everything was done and when the spot inspection was carried out in Annexure-16 dated the 24th of December, 2011 it was after taking note of the area available to the petitioner i.e. plot Nos. 3680 and 3695, the report given is that the frontage is more than as is required as per the



advertisement.

A perusal of Annexure 16, the report initially submitted goes to show that in the report (Annexure-16) a statement is made with regard to area available with the petitioner and the area available in the frontage meeting the requirement as per the advertisement. Now a somersault is taken from this and a different report is submitted, that also behind the back of the petitioner and, as contended by the petitioner, without measuring the area available with the appellant vide plot no. 3695.

That being so, we are of the considered view that this is a case where after issuing the Letter of Intent to the petitioner, the same has been withdrawn on the basis of certain material and enquiry and report submitted behind the back of the petitioner. This violates the principles of natural justice and the right available to the appellant and, therefore, the matter should be remanded back to the Oil Company with a direction to conduct re-measurement of the area in presence of the appellant or her representative and thereafter take a decision afresh in the matter within a period of 45 days. The Oil Company should intimate the District Magistrate, Siwan and the District Magistrate shall appoint a team of officers to conduct the measurement of the land and submit a report. Needless to emphasize that the District Magistrate shall ensure that the committee conducts



its inspection in presence of the appellant and the private respondent No.10 and submits a report.

In the meanwhile, the Letter of Intent issued in favour of Respondent No.10 shall be kept in abeyance and final decision shall be taken only after the report of the District Administration, based on the inspection to be conducted, as directed.

With the aforesaid observations and directions, this appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
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