

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15912 of 2014

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Amarnath Prasad, son of late Mukh Lal Singh, resident of village- Turki, Tola - Barkurba, P.S.- Kurhani, Block Kurhani, District – Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Environment and Forest, Govt. of Bihar, Sichai Bhawan, Harding Road, Patna – 1.
2. The Principal Chief Conservator of Forest, Govt. of Bihar, Sichai Bhawan, Harding Road, Patna – 1.
3. The Divisional Forest Officer -cum- the Licencing Authority, Tirhut Forest Division, Aranya Bihar, Sherpur, Muzaffarpur.
4. The Conservator of Forest, Forest Circle Aranya Bihar, Sherpur, Muzaffarpur.
5. The Forest Range Officer, Range Officer, West Muzaffarpur, Tirhut Forest Division, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Mauli Chaurasia, Advocate

For the Respondent/s : Mr. Satyeshwar Prasad, AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-12-2017

Heard Mr. Chandra Mauli Chaurasia, learned counsel appearing for the petitioner and Mr. Satyeshwar Prasad, learned Assisting Counsel to Standing Counsel No.7 for the State.

The petitioner has questioned the notice bearing No.52 dated 10.1.2014 issued by the respondent no.3, the Divisional Forest Officer – cum- the Licensing Authority, Tirhut Forest Division, Muzaffarpur, a copy of which is impugned at Annexure 7 to the writ petition, whereby the licensee who has since deceased has been put on notice to demonstrate as to whether he has lost control over the saw mill in question and whether there is any change of ownership by execution of power of attorney in favour of the petitioner herein.

It is not in dispute rather admitted that it is on the death of the



original licence holder Bhikhari Rai on 10.10.2000 that his sons have executed a power of attorney on 20.10.2001, a copy of which is at Annexure 1 series, whereby the operation of the saw mill in question together with all associated responsibilities have been handed over to the petitioner. A show cause reply has been filed on behalf of the sons of the original licence holder, a copy of which is at Annexure 8 but when it has transpired to the respondent authorities that the original licence holder has since deceased that his sons have been put on notice by a subsequent notice bearing No. 1658 dated 9.9.2015, a copy of which is at Annexure 10 requiring them to appear and explain as to whether there is any change of ownership of the saw mill by the execution of power of attorney .

The notice at Annexure 10 would confirm that the matter is yet pending before the Divisional Forest Officer -cum- Licensing Authority, Tirhut Forest Division, Muzaffarpur for a final adjudication on the issue and as to whether there is any transfer of ownership in view of the power of attorney.

Although the 3 sons of the deceased licence holder who have been put on notice are not before this Court to raise any grievance, it is by virtue of the authorization given to the petitioner by the sons of the original licence holder under the power of attorney at Annexure 1 series more particularly paragraph 4 thereof that he is before this Court. In my opinion where the issue of transfer of ownership of the saw mill under the power of attorney is yet pending before the Licensing Authority cum Divisional Forest Officer, Respondent no.3 it would be preempting a decision, to pass any order on the merits of the rival claims at this stage.



According to Mr. Chaurasia, learned counsel appearing for the petitioner, the matter lingers before the respondent no.3 despite filing of the show cause.

A counter affidavit is filed on behalf of the respondents in which they do admit that the earlier notice issued in the name of the deceased licensee was a mistake and that the said notice has since been recalled by a subsequent notice.

Having heard learned counsel for the parties and considering that the matter is yet pending before the respondent no.3, the Divisional Forest Officer –cum- Licensing Authority, Tirhut Forest Division, Muzaffarpur I deem it proper to dispose of the writ petition with a direction to the respondent no.3 to consider and dispose of the matter in accordance with law and after due opportunity of hearing to the relevant parties which would include not only the 3 sons of the deceased licence holder but also the attorney holder who is the petitioner herein, expeditiously and preferably within a period of three months from the date of receipt/production of a copy of this judgment.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03-01-2018
Transmission Date	NA

