

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5260 of 2017

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Baijnath Sahni, Son of Late Netlal Sahni, Resident of Village- Gunai Bashi, P.S.-
Tajpur, District- Samastipur.

.... Petitioner

Versus

1. The Union of India through the Managing Director, Indian Oil Corporation (Retail) Lok Nayak Jai Prakash Bhawan 5th floor, Dak Bungalow Chowk, Patna.
2. The Senior Divisional Manager (Retail), Begusarai Divisional Office, District Barauni Oil Refinery, District- Begusarai.
3. The District Magistrate, Samastipur.
4. The Deputy Collector Land Reform, Samastipur.
5. The Circle Officer, Morwa, District- Samastipur.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Sanjay Singh, Advocate. Mr. Mahendra Thakur, Advocate.
For the State	:	Mr. Sajid Salim Khan, SC-25
For the IOC	:	Mr. Anil Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-01-2018

Heard learned counsel for the petitioner, learned counsel
for the State as well as learned counsel for the respondent-Indian Oil
Corporation.

2. The present writ petition has been filed for the
following reliefs:

“(i) For issuance of writ in the appropriate nature for quashing of the Letter dated 14.11.2016 issued under the signature of the Senior Divisional (Retail) Sale Manager, Indian Oil Corporation whereby and whereunder the petitioner has been informed to explain by filing a written reply that why not Letter of Intent issued in his favour will not be cancelled for not meeting the condition of Letter of Intent.

(ii) For further quashing of the letter no. 1950 dated



21.07.2016 issued under the signature of the District Magistrate, Samastipur whereby and whereunder the District Magistrate, Samastipur has informed to the S.D.R.S.M. Begusarai, India Oil Corporation Ltd. informing that No Objection Certificate can't be issued with respect to the offered land of petitioner as it is under dispute.

(iii) For further direction to the respondents-Authority Indian Oil Corporation to allow the petitioner to construct the Kisan Sewa Kendra and its infrastructure as there is no dispute over the land in question and further direction to the respondent Indian Oil Corporation to give an another alternative remedy to the petitioner to offer alternative land for the purpose of construction of Kisan Sewa Kendra in view of the Advertisement for which the petitioner was selected for the location Nikaspur under the District of Samastipur.

(iv) For further direction to the respondents Indian Oil Corporation not to re-advertise the location or to withdraw the letter of intent issued in favour of the petitioner till final decision of the issue and further direction to the respondent District Magistrate to re-examine the issue of no objection with respect to the land offered by the petitioner giving an opportunity to the petitioner to explain that under what circumstances No Objection Certificate was not being issued.

(v) For further direction to the District Magistrate to reconsider the issue of No objection and after consideration of the same issue No Objection Certificate to the Indian Oil Corporation Ltd. with respect to the land offered by the petitioner.

(vi) And for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law."

3. Mr. Sanjay Singh, learned counsel appearing on behalf of the petitioner, submits that the refusal to grant 'No Objection



Certificate' (NOC) by the District Magistrate, Samastipur in terms of the impugned letter no. 1950 dated 21.07.2016 (Annexure-7) and the consequential letter dated 14.11.2016 issued by the respondent-Indian Oil Corporation are wholly misconceived. He invites attention to the land possession certificates dated 19.09.2011 and 18.01.2014 (Annexure-3) to submit that the petitioner has purchased the land through the sale deed and has been in peaceful possession of the same. Mutation Appeal Case No. 211 of 2011 preferred by one Tarni Prasad Rai against the petitioner was also rejected by order dated 22.01.2014 (Annexure-5) holding that in the absence of any sale deed produced by the said appellant, prima facie, he had failed to establish his right as claimed. Injunction application in Title Suit No. 24/2013 filed by the said Tarni Prasad Rai was also found to be not maintainable for similar reasons. It is therefore submitted that prima facie, the dispute raised by Tarni Prasad Rai has no substance and the District Administration ought to have granted the NOC in favour of the petitioner.

4. Learned counsel for the respondent-State opposes the writ petition on the basis of the counter affidavit filed. It is pointed out that the District Magistrate has rightly refused to issue an NOC on the basis of the report of the Circle Officer, Morwa who has reported that there is dispute with regard to the proposed land. It is further stated that according to the report submitted by the Senior Deputy Collector, Samastipur, the land in question was disputed in view of the playground of College which fell on the subject plot. Moreover, Title Suit No. 24 of 2013 filed by Tarni Prasad Rai against the petitioner is



pending in the Court of Sub-Judge-III, which clearly shows the existence of a dispute over the said land.

5. Learned counsel for the respondent-Indian Oil Corporation appears and has been heard. It is stated that Letter of Intent has been issued in favour of the petitioner on 25.06.2014 but however the letter dated 14.11.2016 was issued to the petitioner in view of the rejection of the petitioner's NOC application by the District Administration.

6. Having heard the parties and on a consideration of the materials on record, this Court is not inclined to interfere in the matter. No doubt, the land possession certificates, the mutation appeal as well as the injunction order in the Title Suit all stand in favour of the petitioner, yet it is not in dispute that Title Suit No. 24 of 2013 in which the title over the land itself is claimed by Tarni Prasad Rai is pending. It is also not in dispute that even though the said Tarni Prasad Rai has so far not produced any sale deed in his favour, the same may be produced at the appropriate time in the aforesaid Title Suit. Be that as it may, the fact remains that a Title Suit is pending between the parties and hence title over the said land is yet to be settled by a Court of competent jurisdiction where the matter is pending. In that background, the action of the District Magistrate in taking note of the Circle Officer's report with regard to the nature of disputed land, cannot be faulted. It is also relevant to take note that the Title Suit was filed in the year 2013 whereas the LOI was issued in favour of the petitioner thereafter on 25.06.2014 but the respondent-Corporation



has not been able to show that they have considered the fact of the aforesaid Title Suit while issuing the LOI in favour of the petitioner. It is expected that the respondent-IOC would be circumspect in issuing a Letter of Intent when the land itself is in dispute and rather it would prefer an alternative piece of land with clear title to avoid litigation in future.

7. The writ petition accordingly stands dismissed.

Md. Ibrarul/BT

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.01.2018
Transmission Date	N.A.

