

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21821 of 2014

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Mani Lal Sharma Son of Late Kishun Mistry @ Late Kishun Lal Sharma Resident of Barbigha mission Chowk, P.O. & P.S.- Barbigha, District-Sheikhpura

.... Petitioner/s

Versus

1. The State of Bihar
2. Gani Lal sharma S/o Late Kishun Lal Sharma Resident of Barbigha mission Chowk, P.O. & P.S.- Barbigha, District-Sheikhpura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar

For the Respondent/s : Mr. AAG11- ASHOK KUMAR
KESHARI

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date: 25-06-2018

The petitioner before this Court is plaintiff of Title Suit No.82 of 2013 pending in the Court of Sub Judge-Ist, Sheikhpura. He has filed this application for quashing the order dated 21.11.2014 passed by the court below whereby and whereunder the petition filed under Order XXXIX Rule 1 and 2 read with Section 151 of the CPC has been dismissed.

2. Heard learned counsel for the petitioner and the respondents. A counter affidavit has been filed on behalf of respondent no.2.

3. The petitioner has filed the aforesaid suit against his brother and government authorities for declaration that the plaintiff is



the sole authority to get license for running the saw mill besides other ancillary reliefs. The petitioner filed an injunction petition before the court below on 19.10.2013 praying therein to restrain the defendant no.1 from running the saw mill business. The defendant no.1 filed objection and after hearing both sides, the learned court below dismissed the injunction petition.

4. It appears that the father of the petitioner and respondent no.3 was running saw mill business under a valid license in the name and style as Gani Lal and Mani Lal Saw Mill which was duly registered by the District Industry Centre, Munger on 30.12.1985. After the death of father, the elder brother of the petitioner obtained license in the name of said firm describing himself as proprietor. According to petitioner the major portion of the land over which the saw mill was established fell in the share of the petitioner. The brother of the petitioner had no authority to get license in his name describing himself as sole proprietor of the firm. The said license was renewed in the year 1996. It further appears that the brother of the petitioner (respondent no.3) filed CWJC No.297 of 2012 before this Court which after hearing was disposed of on 19.01.2012 with an observation that “in view of the notification of central empowered committee and the fact that the seniority list indicates that the petitioner is at serial no.12, a decision should be taken by respondent nos.2 and 3 with respect to the petitioner within three months on



receiving representation filed on his behalf.” This petitioner filed Civil Review No.167 of 2012 against the said order which was disposed of on 05.12.2012 with an observation that “it would be proper that the matter be left to the District Level Committee (DFO) to take up this issue and decide the rights of the parties.” Both parties are claiming their right and interest over the Saw Mill which was established by their father. The court below has rightly observed that in view of direction of this court, licence has been granted by the competent authority in the name of respondent no.3. The petitioner/plaintiff is not entitled to injunction as neither prima-facie case is made out nor balance of convenience lies in his favour. The respondent no.3 can’t be restrained from running Saw Mill for which he has obtained licence after depositing required fee.

5. In the facts and circumstances of the case, I do not find any merit in this application requiring any interference under the inherent jurisdiction. This application is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	29.06.2018
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