

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5611 of 2017

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M/s Royal Timber Company Kankarbagh, P.S. Kankarbagh, District - Patna, a
Proprietorship firm through its Proprietor Rajesh Kumar Gupta son of Late
Dashrath Kumar Gupta resident of D - Block, Pushp Vihar Apartment,
Exhibition Road, Patna, P.S. Kotwali, District – Patna ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Environment & Forest
Department, Government of Bihar, Patna.
2. The Principal Chief Conservator of Forest, Bihar, 5th Floor, Aranaya Bhawan,
Sheikhpura, Patna - 800014.
3. The Conservator of Forest, Patna Circle, Patna.
4. The Licensing Officer-cum-Divisional Forest Officer, Patna Forest Division,
Patna.
5. Brij Nandan Singh son of Sri Sachidanand Kishore Prasad Sinha resident of
Mohalla - Kankarbagh Road, Patna, P.S. Kankarbagh, District - Patna.
6. Pushkar Anand @ Pushkar Anand Singh son of Sri Brij Nandan Singh
resident of Mohalla - Kankarbagh Road, Patna, P.S. Kankarbagh, District –
Patna ... Respondents

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Appearance :

For the Petitioner	:	Mr. Vinay Mistry, Adv.
For the State	:	Mr. Awanish Nandan Sinha, GP XXI
For Respondent no. 5	:	M/s Prabhat Ranjan & Chandan Kumar, Advs.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 18-08-2018 Heard the learned counsel for the petitioner, the

learned counsel appearing for the State and learned counsel for

the private respondent no. 5.

Petitioner has filed Interlocutory Application No.
6127 of 2017 in which he also challenges the order, dated
11.08.2017, passed by the Licensing Authority-cum-Divisional
Forest Officer, Patna Division, by which the renewal of licence
of the petitioner has been rejected.

The said interlocutory application under the facts
stated therein is allowed.

Respondent no. 5 has also filed Interlocutory



Application No. 7897 of 2017 for vacating the order of stay granted by this Court, dated 09.10.2017, let it also be taken as part of the record.

Petitioner had initially challenged the order, dated 11.03.2017, which was a notice as contained in Annexure P/8 whereby petitioner was asked to submit the lease agreement of the land for his renewal of licence for running a saw mill for the period 2016-17 to year 2021 by the Licensing Authority-cum-Divisional Forest Officer, Patna Division,.

Learned counsel for the petitioner submits that he had taken the land of respondent no. 5 on lease for running a saw mill, the lease period of which expired on 31.05.2016, licence for running the saw mill being Licence No. 12 of 1994 was renewed time to time, the last period of lease for running the saw mill being 31.12.2016. Counsel for the petitioner submits that the petitioner is ready to deposit the lease amount for the land in question and in this connection he had sent the lease amount to the respondent no. 5 which they have refused by Annexures 'A' and 'B' of the reply to Interlocutory Application No. 7897 of 2017. He, further, submits that as per Clause 6(4) of the Bihar Saw Mill Regulation Rules, 1993, if the renewal of licence is pending for consideration, it shall be deemed as if



such licence was renewed under the Act, hence, his application for renewal would be deemed that his licence was renewed. He relies on the order, dated 14.08.2013, passed in the case of **Ramanand Sharma vrs. the State of Bihar & Ors., passed in C.W.J.C. No. 7898 of 2012** stating therein that the petitioner cannot be said to be in illegal possession even after the expiry of the period of lease and the Licensing Authority ought to have treated him a licensee under the Bihar Saw Mill Regulation Act, 1990, and the Bihar Saw Mill Regulation Rules, 1993. Counsel for the petitioner submits that he is ready to pay the lease rent of the premises in question and also pay the renewal fees and the licence for running of saw mill be renewed. He, further, submits that the order rejecting the renewal, as contained in Annexure 1, of the Interlocutory Application No. 6127 of 2017 dated 11.08.2017, has been passed by the Licensing Authority in violation of principles of natural justice.

Learned counsel appearing for the respondent no. 5, however, submits that the period of lease of the land expired on 31.05.2016, thereafter, they were not agreeable to renew the lease in favour of the petitioner. He, further, submits that the decision in the case of **Ramanand Sharma** (supra), as contained in Annexure 1, is not applicable in the case of the



petitioner as it was on a different background where the lease was granted by the original land lord to the petitioner of that case and a dispute arose between the two legal heirs as lease regarding the said land executed in favour of the petitioner in that case by one legal heir, the other disputed the right and title which was under litigation by way of civil litigation between the parties that is why this Court in the said writ application had decided that any party cannot be evicted without a decree of the competent Civil Court and not otherwise and that the order passed by the Conservator of Forest, Patna Circle, was during the pendency of the lease for running a saw mill. The decision cited by the petitioner which is reported in the **A.I.R. 1988 Gua, 28 (M/s Guru Nanak Saw Mill Vrs. State of Assam & Ors.)** is also on a different footing wherein the issue was whether a person could have a saw mill licence unless he had a land of his own or a land taken on lease and also that merely pendency of a suit before a Civil Court disputing the lease by the owner of the land would not ipso facto be sufficient ground for refusal to renew the licence. For ready reference observation at paragraph 4 of **M/s Guru Nanak Saw Mill** (supra) is quoted below :

“.... If the petitioner fails to satisfy that the lease has not been terminated wherefor his rights to possess the land upon



which the mill was situated continued, that would of course be a different question altogether. In the instant case there is evidence to show that the land lord himself approached the forest authority not to renew the licence because of the pendency of a civil suit, the pendency of civil suit does not ipso facto terminate the lease.....” Admittedly, in the present case lease between the petitioner and the landlord-respondent no. 5 expired on 31.05.2016.

Although learned counsel for the petitioner submits that a case is pending before the Civil Court regarding the lease of land, but, that would not ipso facto be taken to be a ground in favour of the petitioner as while rejecting renewal of lease the Licensing Authority has observed that if a new land ownership of lease is provided then the matter for lease agreement with the petitioner would be considered.

Learned counsel for the respondent no. 5 submits that the form for obtaining licence before the Licence Officer, which is Form “C”, Clause 5 states that the legal status of the land and the title of ownership of the land on which the saw mill is established or proposed to be established is to be mentioned. Since, the lease agreement of the land between the petitioner and the respondent no. 5 expired on 31.05.2016 itself and the



respondent no. 5 was not willing to renew the lease agreement with the petitioner, Clause 5 of the Form “C” was the ground for rejecting renewal by the Licensing Authority.

Learned counsel for the State also adopts the submissions of the respondent no. 5 stating therein that the order passed by the Licensing Authority, dated 11.08.2017, calls for no interference.

Having heard the rival submissions of the parties, the licence for running a saw mill was granted to the petitioner on the basis of the lease agreement of land between the petitioner and the respondent no. 5. Here, it is relevant to quote Clause “g” of Section 2 “Definitions” of the Bihar Saw Mills Regulation Act, 1990 :

“(g) “saw mill” means the plant and machinery with which and the premises including the precincts thereof in which or in any part of which sawing is carried on with the aid of electrical or mechanical power. It shall also include veneer plywood manufacturing unit.”

From the plain reading of clause (g) of Section 2 of the Act, establishment of saw mill is on own premises or land taken on lease, lease having expired in the case of the petitioner, the renewal of the lease could be on a land either on ownership or on lease for licence for running a saw mill. The decisions



cited by the petitioner of **Ramanand Sharma** (supra) and **M/s Guru Nanak Saw Mill** (supra) is on a different footing where lease of land subsisted but there was civil litigations pending in the Civil Court of competent jurisdiction. Further more, Form 'C', Clause 5 of the form for obtaining licence the applicant has to disclose legal status of land and title of ownership of the land on which saw mill is established. The lease of the land on which saw mill was established expired on 31.05.2016 and the respondent no. 5 was not willing to renew the lease agreement with the petitioner. Hence, the notice asking for lease/kirayanama for renewal of licence for five years, dated 11.03.2017, and the order of the Licensing Authority, as contained in Annexure 1, dated 11.08.2017 does not suffer from any infirmity.

The writ application has no merit. It is **dismissed**.

(Nilu Agrawal, J)

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