

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16306 of 2014

Along with

Interlocutory Application No. 6525 of 2015

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M/s Modern Saw Mill, a Proprietorship firm through its Proprietor Abdul Sattar son of Late Abdul Rauf resident of village - Maldahiya, Narkatiyaganj, P.S. Sikarpur, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, through Commissioner-cum-Principal Secretary, Department of Forest & Environment, Government of Bihar, Patna.
2. The District Collector-cum-District Magistrate, West Champaran.
3. The Conservator of Forest-cum-Regional Director, Valmiki Tiger Project, West Champaran, Bettiah.
4. The Licensing Authority-cum-Divisional Forest Officer-cum-Deputy Director, Valmiki Tiger Project, Divisional-1, West Champaran, Bettiah.
5. Sarfaraz Ahmad son of Md. Ali, resident of Ram Nagar Bazar, P.S. Ram Nagar, District - West Champaran at Bettiah, at present resident of village- Maldahiya, P.S. Sikarpur, District - West Champaran at Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal, Advocate

For the State : Mr. Dinbandhu Singh, G.P. 9

For the respondent no. 5 : Mr. Vinod Gautam, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-11-2018



Heard learned counsel for the petitioner; State and respondent no. 5.

Re.: Interlocutory Application No. 6525 of 2015

2. The present Interlocutory Application has been filed seeking addition of further relief in the writ petition. Perusal of the same discloses that it is linked to the reliefs sought for in the main writ petition.

3. Accordingly, the prayer is allowed.

4. Let the reliefs sought in paragraph no. 2 of the Interlocutory Application form part of the reliefs sought for in the main writ application.

5. Interlocutory Application No. 6525 of 2015 stands disposed off.

Re.: Civil Writ Jurisdiction Case No. 16306 of 2014

6. The petitioner has moved the Court for the following reliefs:

“(i) To issue an appropriate writ(s)/order/directing for quashing the order dated 07.05.2014 passed in Misc. Appeal No. 04 of 2014 by the respondent No. 3 whereby he has illegally confirmed the order dated 06.03.2014 passed in Misc. Case No. 01 of 2013 by the respondent No. 4 and thereby illegally and contrary to the circular issued by the Government transferred saw mill license of the petitioner.

(ii) To issue appropriate writ(s)/order/direction for quashing the order dated 06.03.2014 passed in Misc. Case No. 01 of 2013



passed by the Respondent No. 4 whereby the respondent has illegally come to the finding of transfer of license by the petitioner in favour of respondent No. 5 by applying law of inheritance.

(iii) To issue appropriate writ/(s)/order/directing the respondents to renew the saw mill license in favour of the petitioner by taking appropriate license fee/late fee from the petitioner.

(iv) To issue appropriate writ/(s)/order/directing the respondents to comply the directions contained in the letter bearing No. 18/13-3673 dated 22.10.2013 issued by the respondent No. 1 whereby saw mill cannot be operated on the basis of power of attorney and for grant of such other relief/(s) for which the petitioner is found entitled to the facts and circumstances of the present case.”

7. The petitioner was the sole proprietor of M/s Modern Saw Mill and had been issued license No. 119 dated 09.05.1986 for running the mill under the Indian Forest Act which was renewed from time to time till the year 1989. However, for various reasons, the license remained unrenewed and ultimately, in the year 1998, the same was renewed till 1997 but with effect from 1998, the license was issued in the name of the respondent no. 5, purportedly on the basis of an affidavit dated 19.03.1998, executed by the petitioner in favour of the respondent no. 5, which stated that the name of the respondent no. 5 be adjusted in the existing license in place of his name. The identity of respondent no. 5 was also disclosed as son-in-law of the petitioner. However, in the year 1998, when the previous license was renewed from the year 1990



to 1997, a new license number being 18 of 1990 was given. Thereafter, from 1998 onwards, the name of the petitioner along with that of the firm i.e., Modern Saw Mill is incorporated on the license. The petitioner received notice dated 13.11.2013, issued by the respondent no. 4, that the license for the saw mill on the basis of power of attorney and partnership deed was not valid. The petitioner thereafter filed his show cause taking the plea that wrongly the respondent no. 5 had got the license issued in his name after defrauding him and the license should, thus, be issued in his name. The respondent no. 4, by order dated 06.03.2014, rejected the prayer. The petitioner challenged the order before the respondent no. 3 in Appeal No. 4 of 2014, which was also rejected by order dated 07.05.2014 leading to filing of the present writ application.

8. Learned counsel for the petitioner submitted that the license was issued in favour of Modern Saw Mill of which he is the sole proprietor. It was submitted that the said firm was registered with the Department of Industries, Government of Bihar and for which the Registration No. 03/20/01194 dated 15.10.1985 was issued in his favour. It was submitted that the so called affidavit dated 19.03.1999, on the basis of which the respondent no. 5 had made a claim for change in the name of the licensee is



frivolous since due to the respondent no. 5, being the son-in-law of the petitioner's brother, his acts were not suspected and as he was helping in the business of the petitioner, the affidavit was also signed by the petitioner in good faith without even bothering to go through the contents. Learned counsel submitted that as the saw mill was being operated smoothly, he had no reason or occasion to suspect the conduct of respondent no. 5 and verify the actual records and only when the notice dated 13.11.2013 was received by him, he became aware of the fraud committed by respondent no. 5. Learned counsel submitted that even though the license issued for the year 1998 was in the name of the respondent no. 5, but the name of the firm has been shown as Modern Saw Mill. It was submitted that the name of the person is immaterial for the reason that the license is in the name of the firm and it is the petitioner who, till date, is the proprietor in terms of the registration with the Industry Department of the State Government. Learned counsel further submitted that the fraud by respondent no. 5 would also be clear from the fact that he is not the son-in-law of the petitioner and rather the son-in-law of the brother of the petitioner and, thus, his plea before the authorities which persuaded them to issue license in favour of respondent no. 5, that the daughter has share in the property of the father was itself



totally false. It was submitted that the daughter of the brother is not the first class heir and the petitioner having children, no right accrues to the daughter of the brother. Learned counsel submitted that, thus, the representation of the respondent no. 5 before the authorities claiming to be the son-in-law of the petitioner is admittedly false and patently illegal. Learned counsel submitted that in such background where the petitioner has been taken for a ride and deceived, his prayer for restoration of his license in his name should have been accepted by the authorities for the ground on which such claim was made was genuine and *bona fide*.

9. Learned counsel for the State, when called upon was not able to assist the Court.

10. Learned counsel for the respondent no. 5 submitted that the petitioner himself had executed an affidavit by which he had handed over the saw mill to him and, thus, the license issued by the authorities in his favour cannot be faulted. At this juncture, on a specific query of the Court as to where was the application made by him for issuance of a fresh license in his name, he was not able to point out and the same has not been brought on record and further to the query of the Court as to how he can claim that his wife has share in the property of the petitioner when she is not the daughter but the niece of the petitioner and under the personal law,



no share in the presence of class first heirs is admissible to her, he was not in a position to give any explanation.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds no merit in the present writ application. The petitioner being negligent of the affairs of the saw mill for such a long period indicates that he was totally not involved or bothered in running of the mill and the same was being run by someone else, may be the respondent no. 5. This is explicitly barred under the relevant Act and the Rules and, thus, the petitioner having acted in violation of the provisions of the Act and the Rules as well as the license issued, cannot claim any indulgence or equity in his favour. Similarly, respondent no. 5 clearly appears to have played fraud on the authorities by representing himself to be the son-in-law of the petitioner and invoking the provisions of the personal law and claiming that his wife has share in the property of the petitioner, has been able to get the license in his name. Thus, for the fraud played by the respondent no. 5 on the system, the license issued in his name also deserves to be cancelled.

12. In view thereof, the writ petition stands dismissed holding both the petitioner and respondent no. 5 ineligible for grant of any license for their conduct as discussed above. Further,



the Court would require the respondent no. 1 to look into the matter as to how the situation came which also indicates connivance on the part of the authorities. He would, thus, fix responsibility on the persons concerned and take appropriate action in accordance with law against all such persons found to be involved in the transaction.

(Ahsanuddin Amanullah, J)

P. Kumar

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