

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.469 of 2018

In

Letters Patent Appeal No.1091 of 2018

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Vijay Sharma, son of Sri Ramadhin Mistri, residence of Village- Lakhnu
Bigha, P.O.- Ugawan, Police Station- Asthawan, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The District Magistrate-cum-Collector, Nalanda at Biharsharif
3. The Deputy Collector Land Reforms, Nalanda at Biharsharif
4. The Circle Officer, Asthawan, Nalanda
5. The Anchal Amin, Asthawan, Nalanda
6. Bharat Petroleum Corporation Limited represented through its Territory
Manager (LPG), Patna
7. The Deputy Manager (LPG), Bharat Petroleum Corporation Limited,
Biharsharif
8. The Assistant Manager, Sales (LPG), Bharat Petroleum Corporation
Limited, Biharsharif (PVC Committee).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Niranjan Kumar, Advocate
For the B.P.C.L. :		Mr. Siddharth Prasad, Advocate Mr. Om Prakash Kumar, Advocate
For the State	:	Mrs. Nutan Sahay, A.C. to AAG-12.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-12-2018

Re: I.A. No. 8966 of 2018

Heard Shri Y.V. Giri, learned senior counsel for the applicant, Shri Siddharth Prasad, learned counsel for the Bharat Petroleum Corporation Limited, Respondent Nos. 6 to 8 and Mrs. Nutan Sahay, learned counsel for the State for Respondent Nos. 1 to 5.

2. The review application is reported to be delayed by 20 days.

3. We have considered the affidavit filed in support of the delay condonation application and we find that sufficient cause has been shown to condone the delay in filing the review application. The delay is condoned and the review application shall be treated to be within time.

4. I.A. No. 8966 of 2018 stands allowed accordingly.

Re: Civil Review No. 469 of 2018

This review application has been filed contending that there is an error apparent on the face of the record inasmuch as the Division Bench while proceeding to dismiss the appeal and relegating the applicant-appellant for filing a suit for damages has assumed that it is not in dispute that third party rights have



already been created and the L.P.G. distributorship has been allotted and given to another person.

2. Learned counsel submits that this eventuality does not appear to have been correctly assumed on facts inasmuch as the notice which has been issued for participation in the Online computerized draw of lots is dated 23rd November, 2018 fixing 29th November, 2018.

3. Learned counsel for the Bharat Petroleum Corporation, however, submits that during the course of argument an oral submission had been made informing the Court about intervention of third party rights.

4. We are of the considered opinion that such facts were not on record nor the applicant-appellant had any opportunity to rebut the same. Apart from this, the subsequent facts relating to the online computerized lottery as proposed itself establishes that no third party rights had been created. Consequently, the impugned judgment dated 14th August, 2018 clearly proceeds on an erroneous assumption of facts and, therefore, the same is an error apparent on the face of the record.

5. Learned counsel for the parties agree that this review application be finally disposed of and the appeal itself be heard on merits.



6. Consequently, we allow this application and recall the judgment dated 14th August, 2018 and restore the appeal to its original number.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

AFR/NAFR	
CAV DATE	
Uploading Date	12.12.2018
Transmission Date	

