

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8297 of 2015

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M/s M.j. and Sons Distillery and Breweries Pvt. Ltd. resident of Janki Villa,
23-A Basant Vihar Colony, Boring Road, P.S. S.K. Puri, District Patna

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna
3. The Director Cum Special Secretary, Revenue and Land Reforms
Department, Government of Bihar, Patna
4. The Secretary-cum-Excise Commissioner, Bihar, Patna.
5. The Collector, Banka
6. The Superintendent of Excise, Banka

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Satyabir Bharti
For the Respondent/s : Mr.Lalit Kishore Paag

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

17 14-01-2020 The petitioner through the instant petition has prayed
for the following relief:

“(i) for issuance of a writ of certiorari,
quashing the order, dated 20.5.2015, as contained
in memo no. 2336, (Annexure-27) issued under the
signature of the Joint Commissioner of Excise,
Bihar, Patna by which, inter alia, the Collector,
Banka has been restrained to renew the distillery
license of the petitioner till disposal of the Land
Encroachment Appeal No. 237 of 2012-13 filed by
the petitioner and pending before the Court of



Collector, Banka;

(ii) For issuance of writ of mandamus directing the respondents to renew the distillery license of the petitioner in Form 28A prescribed under the Bihar Excise Act for the financial year 2015-16 which has been withheld since 1.4.2015 without any just and reasonable cause causing irreparable financial loss and injury to the petitioner;

(iii) To hold and declare that the alleged land dispute with respect to a portion of distillery premises cannot be a ground for withholding of the distillery license of the petitioner and such disputed questions of title cannot be decided in summary proceeding initiated under the Bihar Public Land Encroachment Act and any decision taken under the said provisions cannot be a ground for refusal to renew the license of the petitioner;

(iv) For issuance of a writ of certiorari quashing the order dated 16.2.2016 as contained in letter no. 168 (Annexure-20) issued under the signature of Deputy Secretary, Revenue and Land Reforms Department, Bihar by which the Department had refused to render any opinion or guidelines on the issue of grant of lease;

(v) For issuance of a writ of mandamus to direct the respondents specially respondent no.2 & 3 to consider grant of lease over the lands in question measuring on area of 1.42 acres situated over Revenue P.S. No. 390, Khata No. 96(old)558



(new), Khesra No. 693 (old)/946, 947 and 948 (new), Amarpur Block, District-Banka in the light of various orders/circulars issued by the Government in the regard. The petitioner is making the aforesaid prayer without any admission whatsoever that the lands in question is public land and such prayer is being made solely in order to end of the dispute which is pending since the last six years;

(vi) To pass such other order(s), direction(s) as your Lordships may deem fit and proper in the facts and circumstances of the case.”

While the matter was taken up for hearing today, learned counsel for the petitioner fairly confined the scope of the present petition qua relief (5) reproduced(supra).

It is seen that on 19.11.2016 this Court passed the following order:

“Mr. Lalit Kishore, learned Principal Additional Advocate General-I, seeks some time to find out as to whether and the land in question measuring 1.42 acres can be leased to the petitioner in perpetual or exchanged with some other lands owned by the petitioner.”

Thereafter, the matter was listed for hearing from time to time.



Having heard learned counsel for the parties, we are of the considered view that sole surviving issues can be best decided by the authorities who are duty bound to consider the request of the petitioner expeditiously in accordance with law.

As such, the present writ application stands disposed of with a direction to respondent nos. 2 and 3 to consider the request of the petitioner as reproduced (supra) in accordance with law within a period of three months from today.

We clarify that we are not adjudicated the surviving issues on merit and the authorities are duty bound to take action independent of any observation made by this Court.

All the issues are left open.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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