

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.159 of 2020

In

Civil Writ Jurisdiction Case No.25817 of 2019

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M/s Sunit Saw Mill through Partner (SIC) Proprietor Vibhisan Yadav (Male),
Aged about 55 Years, Son of Late Raudi Yadav, Resident of Village - Kataiya,
P.s. - Basopatti, District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Environment and Forest Department, Bihar, Patna.
2. The Principal Chief Conservator of Forest, Bihar, Patna.
3. The Divisional Forest Officer, Mithila Forest Division cum Licensing Officer, Darbhanga.
4. The Regional Conservator of Forest, Madhubani.
5. M/S Sunit Saw Mill through Suresh Thakur, Son of Basudeo Thakur, resident of Village and P.O. - Kaluahi, District - Madhubani.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Kripa Nand Jha, Advocate
For the Respondent/s : Mr. Awanish Nandan Sinha, GP 21

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 19-08-2021

I.A. No.1 of 2020:

This interlocutory application has been filed by the

appellant for condoning the delay of 12 days in preferring the present LPA.

For the reasons, as stated in aforesaid interlocutory application, the delay in preferring the present LPA is condoned.

I.A. No. 1 of 2020 stands allowed.

LPA No.159 of 2020:

Heard learned counsel for the parties.

Being aggrieved by judgement and order dated 06.01.2020 passed in C.W.J.C. No. 25817 of 2019 passed by learned Single Judge of this Hon'ble Court, appellant/petitioner has preferred this L.P.A.

Appellant had filed the writ petition for quashing the office order No.103 dated 09.11.2019 by which representation of appellant filed pursuant to direction given by this Court in CWJC No.19704 of 2015 dated 21.2.2019 was dismissed by the competent authority as well as to allow the appellant to operate his saw mill declaring him to be the licensee under Section 7 (2) (1) of Bihar Saw Mills (Regulation) Act, 1990.

Briefly stated the facts of the case is that M/s. Sunit Saw Mill in the District of Madhubani became operational in the year 1994 after getting licence under Section 7 of Bihar Saw Mills (Regulation) Act, 1990 in the name of its proprietor

Suresh Thakur and same was renewed from time to time.

Appellant claims that he was partner in the said firm and by agreement dated 24.12.2001, said Suresh Thakur transferred the ownership of the saw mill in the name of appellant vide agreement dated 24.12.2001 on payment of consideration amount of rupees two lakhs.

From the records of the present case, it appears that appellant had earlier challenged seniority of saw mill published by the Divisional Forest Officer, Darbhanga by filing CWJC No.16387 of 2013 which was dismissed as withdrawn by order dated 6.8.2015 with liberty to approach appropriate authority when Suresh Thakur appeared and filed intervenor petition.

Subsequently, appellant again filed CWJC No. 19704 of 2015 for similar relief stating therein that pursuant to liberty granted vide order dated 6.8.2015 in CWJC No.16387 of 2013 he did not approach competent authority, however, he is holding valid licence for saw mill but his name has not been included. Counter affidavit was filed on behalf of State of Bihar in which it was stated that appellant is not registered as saw mill owner of Sunit Saw mill rather Suresh Thakur is real owner of Sunit Saw Mill. The original Sunit Saw Mill is running at Bhatsimer Rajnagar and appellant has illegally established

another saw mill at Kaluahi in the name of Sunit Saw Mill, however, the learned Single Judge disposed of the writ petition by his order dated 21.02.2019 with liberty to appellant to file a representation and pursuant to said liberty, appellant filed a representation which was dismissed by the licensing authority cum Divisional Forest Officer, Darbhanga by his order dated 9.11.2019 holding that the owner of Sunit Saw Mill is Suresh Thakur who has been granted licence no.972 dated 11.5.1994 under the provisions of Bihar Saw Mill (Regulation) Act, 1990 and said saw mill is operational at specified location. Appellant has established a separate saw mill in the name of Sunit Saw Mill and is operating it without any valid licence which is illegal and for which direction has been issued to the concerned authority to take appropriate action against appellant and against said order dated 09.11.2019 appellant filed present writ petition.

Writ petition was dismissed observing that “writ court would not indulge in disputed question of facts. Whether the firm is a partnership or proprietorship is a disputed question which the petitioner would avail by way of a declaration in a proper constituted suit in consonance with declaration with regard to Sunit Saw Mill and then and only would be entitled to

ask for any kind of licence at the end of the respondents”.

This Court does not find any error or infirmity in the order passed by the learned Single Judge requiring any interference by this Court.

The LPA is, accordingly, dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2021
Transmission Date	NA