

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5246 of 2024

1. Saroj Devi, female, aged about 56 years, daughter of Late Gayatri Devi and Late Kripashankar Sharma and Wife of Shri Vidya Kumar Rana, Resident of Village Bhatauliyar, P.S.- Minapur, District- Muzaffarpur, PIN- 843128. (Proposed incoming partners of M/s Shahid Kripashankar KSK a rural Petrol pump retail outlet of Indian Oil Corporation Limited situated at village Katra, Thana No. 172, Block Katra, District Muzaffarpur.)
2. Milan Devi, female, aged about 45 years, Daughter of Late Gayatri Devi and Late Kripashankar Sharma and Wife of Shri Sudheer Kumar, Resident of Village Mathura Dih Khararu, P.S. Minapur, District- Muzaffarpur, PIN- 843128. (Proposed incoming partners of M/s Shahid Kripashankar KSK a rural Petrol pump retail outlet of Indian Oil Corporation Limited situated at village Katra, Thana No. 172, Block Katra, District Muzaffarpur.)

... .. Petitioner/s

Versus

1. Indian Oil Corporation Ltd. (MD) through its Executive Director and State Head, Bihar State Office, Indian Oil Bhavan, Plot No. A-6, Patliputra Industrial Area, Patna PIN- 800013.
2. The General Manager (Retail Sales), Indian Oil Corporation Ltd. (MD), Bihar State Office, Indian Oil Bhavan, Plot No. A-6, Patliputra Industrial Area, Patna PIN- 800013.
3. The Divisional Retail Sales Head, Muzaffarpur Divisional Office, Krishna Complex, Akharaghat Road, Muzaffarpur 842001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Neeraj Kumar Gupta, Advocate.
For the Respondent/s	:	Mr. Sanat Kumar Mishra, Advocate.
For the IOCL	:	Mr. K. D. Chatterji, Senior Advocate with Mr. Amlesh Kumar Verma, Advocate.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

3 23-07-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

“(i) For issuance of a writ of Mandamus, directing & Commanding the respondent authorities to accept the Lease Deed bearing No. 3712 dated



11.12.2006 executed by landowners/lessors in favour of Gayatri Devi, Late mother of the petitioners for land pertaining to new khata No. 871 new Kesra No. 3247 on which the retail outlet has been operating by the late mother of the petitioners and on her death as a lessee the estate being devolved on the petitioners being her legal heirs for the remaining period of the lease mentioned in the lease deed.

(ii) For a direction to the respondents for allowing finally the reconstitution of the firm and subsequent thereof appoint the petitioners as dealers and further allow the petitioners to continue the sale & supply of the petroleum products of the firm 'M/s Shahid Kripashankar KSK' at village Katra, Thana No. 172, Block Katra, District Muzaffarpur and not to disturb the sale & supply."

3. With the consent of both the counsels the present CWJC is disposed of at the admission stage.

4. The present CWJC is filed challenging the letter dated 18.05.2023 issued by the Respondent-Corporation whereby the petitioners were directed to furnish documents to show that the subject property was purchased by them or that a valid lease-deed was existing in their names.

5. The admitted facts are that the Respondent-Corporation has issued a Letter of Intent (LOI) in the name of



the mother of the petitioners and a retail outlet was established. At the time of issuance of Letter of Intent (LOI), the mother has submitted all the relevant documents including a registered lease-deed in respect of the subject property. The registered lease-deed is for a period of 35 years starting from the year, 2006.

6. The mother of the petitioners died on 01.10.2022 and the reconstitution of the dealership was approved in principle vide letter dated 20.10.2022 in favour of the petitioners. However, in the said letter the petitioners were asked to submit a fresh lease-deed or title document in their names.

7. Learned Counsel for the petitioners has argued that the registered lease-deed existing in the name of the mother of the petitioners is a valid document and the rights under the said document will accrue to the benefit of the legal heirs. That the stand taken by the Respondent-Corporation directing the petitioners to submit a fresh lease-deed or ownership document in respect of the subject property is not warranted as the rights under the existing lease-deed in favour of their late mother will vest with them.

8. Learned counsel for the petitioner has relied on the



judgment of the Hon'ble Supreme Court in the case of *State of W.B. & Anr. Vrs. Kailash Chandra Kapur & Ors.*, reported in *AIR 1997 SC 1348*.

9. Learned counsel for the Respondent-Corporation has fairly conceded and not disputed the proposition of law as propounded by the Hon'ble Supreme Court in the above cited judgment.

10. The Hon'ble Supreme Court in the case of *State of W.B. & Anr. Vrs. Kailash Chandra Kapur & Ors.* (supra) has held as under:-

“Accordingly, we hold that if the Rent Act in question defines a tenant in substance to mean 'a we tenant who continues to remain in possession even after the termination of the contractual tenancy till a decree for eviction against him is passed', the tenant even after the determination of the tenancy continues to have an estate or interest in the tenanted premises and the tenancy rights both in respect of residential premises and commercial premises are heritable. The heirs of the deceased tenant in the absence of any provision in the Rent Act to the contrary will step into the position of the deceased tenant and all the rights and obligations of the deceased tenant including the protection afforded to the deceased tenant under the Act will devolve on the heirs of the deceased tenant. As the protection afforded by the



Rent Act to a tenant after determination of the tenancy and to his heirs on the death of such tenant is a creation of the Act for the benefit of the tenants, it is open to the Legislature which provides for such protection to make appropriate provisions in the Act with regard to the nature and extent of the benefit and protection to be enjoyed and the manner in which the same is to be enjoyed. If the Legislature makes any provision in the Act limiting or restricting the benefit and the nature of the protection to be enjoyed in a specified manner by any particular class of heirs of the deceased tenant on any condition laid down being fulfilled, the benefit of the protection has necessarily to be enjoyed on the fulfillment of the condition in the manner and to the extent stipulated in the Act. The Legislature which by the Rent Act seeks to confer the benefit on the tenants and to afford protection against eviction is perfectly competent to make appropriate provision regulating the nature of protection and the manner and extent of enjoyment of such tenancy rights after the termination of contractual tenancy of the tenant including the rights and the nature of protection of the heirs on the death of the tenant. Such appropriate provision may be made by the Legislature both with regard to the residential tenancy and commercial tenancy. It is, however, entirely for the Legislature to decide whether the Legislature will make such provision or not. In the absence of any provision regulating the right of



inheritance, and the manner and extent thereof and in the absence of any condition being stipulated with regard to the devolution of tenancy rights on the heirs on the death of the tenant, the devolution of tenancy rights must necessarily be in accordance with the ordinary law of succession.”

11. Having regard to the above, the settled proposition of law, the impugned letter dated 18.05.2023 to the extent of directing the petitioners to submit “Land documents substantiating that title of the land on which the dealership is set-up/proposed to be set-up (in case of resitment along with reconstitution) is vested with the proposed proprietor/partner(s)/ entity either by way of registered lease or on outright purchase basis must be submitted.” is set aside. The registered lease-deed dated 11.12.2006 executed in favour of the mother of the petitioners shall be taken into consideration by the authorities as valid and necessary orders shall be passed.

12. With the above observation, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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