

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13730 of 2022

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Barun Kumar Son of Late Baldeo Raut Resident of Village- Sripur Hati, P.S.- Pandaul, District- Madhubani, presently residing at House No. 124-B, Road No. 5A, Patliputra Colony, P.S.- Patliputra, District- Patna ... Petitioner

Versus

1. The Hindustan Petroleum Corporation Limited (A Government of India Enterprise) through its Chairman having Registered office at 17, Jamshedji Tata Road, Mumbai- 400020.
2. The Chairman, Hindustan Petroleum Corporation Limited (A Government of India Enterprise) having Registered office at 17, Jamshedji Tata Road, Mumbai- 400020.
3. The Chief Regional Manager, Hindustan Petroleum Corporation Ltd., registered office at Industrial Growth Centre, Maranga, Purnea- 854301.
4. Amit Kumar Son of Late Sri Arun Kumar resident of village- Sripur Hati, P.S.- Pandaul, Distt.- Madhubani.
5. Arun Kumar Son of Late Baldeo Raut resident of village- Sripur Hati, P.S.- Pandaul, Distt.- Madhubani. ... Respondents

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Appearance :

For the Petitioner : Mr.Dr. Anand Kumar, Adv.
For the Corporation : Mr.Sanjay Kumar Mishra, Adv.
For Respondents 4 & 5 : Mr. R.K. Verma, Sr. Adv.

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

10 18-04-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

i. For issuance of an appropriate writ/order/ direction, in the nature of certiorari commanding upon the Respondents HPCL to cancel/terminate the LPG Gas Agency in the name and style of "Jai Mata Rani" Respondent No. 3 allotted to the at Village- Sripur Hati, P.S. Pandaul, District- Madhubani due to obtaining the Gas Agency by an illegal and fraudulent manner without obtaining "No Objection Certificate" from the petitioner, who is co-owner of the land upon



which the Gas Godown and office is situated.

ii. For issuance of an appropriate writ in the nature of mandamus commanding and holding that the allotment of LPG Distribution to the said Amit Kumar i.e. Respondent No. 4 is illegal and fit to be cancel.

iii. For that consequently commanding and directing the Respondent No. 2 and 3 to pay 50% of Godown rent and commission to the petitioner against the use of land of the petitioner on which the Gas Godown & Office has been constructed illegally by the Respondent No. 4 & 5.

iv. For grant of any other relief/reliefs which the petitioner may be entitled to in the facts and circumstances of the case.

3. Learned counsel for the petitioner has stated that the petitioner is the owner of the land to the extent of 3 kathas and 12 dhurs of land out of 7 kahas and 4 dhurs of plot nos. 2328 (old), 5663 (new) and 2329 (old), 5664 (new) of khata no. 513 and 513K at mauza Sripur Hati, P.S. Pandaul, District Madhubani, having purchased the same through a registered sale deed. That the respondents no. 4 and 5 without taking the consent or no objection of the petitioner, have fraudulently obtained the retail outlet dealership of gas agency from the respondent-Corporation. Though the petitioner has made several representations bringing to the notice of the authority



concerned about the fraud committed by the respondents 4 and 5, till date they have not acted on the same. Further it is contended that the authority after receipt of the representation from the petitioner have sought a clarification along with necessary documents and the petitioner has furnished the same. However, the authorities have not passed any order either rejecting the representation or accepting the same. Learned counsel, therefore, seeks a direction from this Hon'ble Court to direct the authorities to take necessary action on the respondents 4 and 5.

4. Per contra, the learned counsel appearing on behalf of the respondents 4 and 5 and also the counsel for the Corporation have vehemently opposed the very maintainability of the Writ Petition. Learned counsel for respondents 4 and 5 has stated that the petitioner has already approached the Civil Court by way of a title suit and unless and until the title suit is decided on merits by the said Civil Court, the petitioner cannot claim any right over the subject land which belongs to the respondents 4 and 5. That the authorities duly taking into consideration the registered documents filed by the respondents 4 and 5 have allotted the retail outlet of gas agency. Further it is argued that the relief sought for in the present Writ Petition



cannot be granted by this Hon'ble Court as disputed questions of facts are involved and which this Court sitting under Article 226 of the Constitution of India cannot adjudicate. Further, learned counsel for respondents 4 and 5 has stated that the petitioner has suppressed the fact that he has already approached the Civil Court by way of title suit in respect of the very same subject land and on this ground alone the present CWJC is liable to be dismissed. That the petitioner having approached the Civil Court has to necessarily await the result of the suit, but, he cannot by-pass the said forum and approach this Court by way of present Writ Petition. Learned counsel has, therefore, prayed for dismissal of the Writ Petition.

5. Shorn of all the details the admitted fact is that the respondents 4 and 5 have applied for retail outlet of the gas agency advertised by the respondent-Corporation. Basing on the documents submitted by the respondents 4 and 5 the Corporation has allotted the retail outlet of gas agency to the respondents 4 and 5 way-back in the year 2019. Thereafter, the petitioner has approached the Civil Court by way of a title suit in the year 2021 in report of the same subject property. Thereafter the petitioner has made representations to the authority concerned seeking for cancelling the allotment made



to the respondents 4 and 5.

6. A perusal of the copy of the plaint filed before the Civil Court by the petitioner reveals that the subject land of the present Writ Petition is part and parcel of the suit schedule land. The petitioner having approached the Civil Court for declaration of his title has to necessarily await the result of the said suit and the petitioner cannot approach this Court by way of the present CWJC. Further, the prayer sought for by the petitioner to direct authority concerned to verify the documents of title of both the petitioner as well as the respondents 4 and 5 and give a finding as to whether the petitioner is having title to the property and whether the respondents 4 and 5 have obtained the gas agency by playing fraud and are all disputed questions of fact which require evidence to be let-in by the parties. It is well settled law that it is only the competent Civil Court which can go into all these questions of facts and give a declaration based on the pleadings and evidence led by both the parties. It is also a settled law that quasi judicial authorities or administrative authorities do not have the authorities or jurisdiction to decide seriously disputed questions of title between varying parties. That the petitioner having approached the Civil Court has to necessarily await the result of the suit and cannot by-pass the



same.

7. This Court does not find any merit in the present Writ Petition which warrants any interference or for granting the relief sought for by the petitioner. The Writ Petition is accordingly dismissed.

8. It is made clear that this Court has not given any on the merits of the case and any observation made by this Court are only for the purpose of disposal of the present CWJC and should not be construed as having decided the matter giving any findings. The Civil Court should decide the suit filed by the petitioner independently on its own merits based on the pleadings and evidence led by the parties.

9. In view of the above the CWJC stands **dismissed**.

(A. Abhishek Reddy , J)

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