

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13865 of 2022

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Sunita Kumari Wife of Kapildeo Prasad Resident of Naser, P.S.-Gurua,
District-Gaya, Bihar-824205.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Collector-Cum-District Magistrate, Gaya.
4. The Additional District Magistrate, Gaya
5. The District Supply Officer, Gaya.
6. The Sub-Divisional Magistrate, Sherghati, Gaya.
7. The Deputy Collector, land Reforms, Sherghati, Gaya.
8. The Circle Officer, Gurua, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prem Ranjan Raj, Advocate
For the Respondent/s	:	Mr. Md. Khurshid Alam (AAG - 12) Mrs.Nutan Sahay, AC to AAG - 12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 01-02-2024

The present writ application has been filed for the following reliefs:-

“(i) For issuance of a writ in the nature of certiorari for setting aside the order contained in letter no.592 dated 31.05.22 issued by the D.M. Gaya whereby and whereunder the application of the petitioner for granting of NOC has been rejected on the bare ground of pendency of contempt petition against the Respondents.



(ii) For directing the respondents to grant no objection certificate (NOC) for the land appertaining to Khata No.16, Plot no.35 area 32 decimals, Mauza-Dhobichak, Anchal-Gurua, Thana no.656 for petrol pump as letter of intent (LOI) has been issued by Indian Oil Corporation for opening a retail outlet over the above-said land.

(iii) For further issuance of writ/writs, order/orders, direction/directions as this Hon'ble Court may deem fit and proper in the fact and circumstances of this case.”

2. Short fact of the case is that the husband of the petitioner purchased a piece of land appertaining to Khata no.16 plot no.35 area 84 decimals, Mauza-Dhobichak, Anchal-Gurua through a registered sale deed, bearing sale deed no. 6973, dated 15.11.2014, and he has been *bonafide* owner and holder/raiyat of the land. The record of right related to the said piece of land was mutated in the name of the husband of the petitioner, by Jamabandi No.64, and rent receipts were being dully issued in his favour since then. The aforesaid piece of land was allotted in the unit of Kamrul Imam in the land ceiling procedure and the Notification published under the ceiling Act on 01.07.1985 in his name in Gaya District Gazette notification, Land ceiling Case No.74/84-85. It is pertinent to mention here that the Sub-Registrar,



prior to registration of land in question, called for a status report from Gurua Anchal. Subsequently, the Circle Officer, Gurua, vide letter no.762 dated 12.11.2014, submitted his report and the land in question was registered in favour of husband of the petitioner.

3. On 26.10.2014, the Indian Oil Corporation published an advertisement in news paper for requirement of regular retail outlet of the company and invited proposal application for grant of retail outlet on several selected location including the state highway SH-69 location in Gurua, Gaya. The petitioner, being found herself eligible candidate, made an application for the same and the petitioner was duly selected by the Indian Oil Corporation after due verification of land, which is in name of her husband and thereafter, the LOI (Letter of Intent) has been issued vide Letter Ref. no.-N/2017/IN000295/BH/000039/2302/00003 dated 01.08.2017, offering the retail outlet over the said land. Pursuant to the same, the petitioner applied for 'No Objection Certificate' for the retail outlet of Indian Oil Corporation before the District Magistrate, Gaya in terms of Rule 141 of the Petroleum Rules, 2002, which was rejected on 31.05.2022 by the District Magistrate, Gaya on the ground of pendency of a contempt petition i.e. M.J.C. No. 127 of 2022 before this Court against the respondents.



4. Learned counsel for the petitioner submits that despite the fact that land in question does not come under the ambit of surplus lands, as the Gazette notification has already published in the name of Kamrul Imam, but still the District Magistrate denied to issue no objection certificate in favour of the petitioner on the ground of pendency of the contempt application. At this stage, it is relevant to point out that contempt petition i.e. M.J.C. No. 127 of 2020, which is said to be pending before this Hon'ble Court, arises out of C.W.J.C. No. 7809 of 2018, and the same was disposed on 25.10.2018. The writ petition was filed for a direction to the respondent to dispose of the representation filed before the District Magistrate-cum-Collector, Gaya. After hearing the parties, the writ petition (CW.J.C. No. 7809 of 2018) was disposed of, vide order dated 25.10.2018, with direction to the Collector, Gaya to dispose of the representation of the petitioners (Dilchand Bhuiya and Others) preferably within four months from the date of receipt of the order. In compliance of the order dated 25.10.2018 passed in C.W.J.C. No. 7809 of 2018, the Additional Collector, vide order dated 30.07.2019, has already disposed of representation with an observation that Land Ceiling Proceedings, which were initiated against the legal heirs of the Anjar Hussain, has already been concluded between the year 1984 to 1999 and as such, no order is



required to be passed (copy of order dated 30.07.2019 is annexed as Annexure 9 to rejoinder to the counter affidavit). Drawing attention towards paragraph – 11 of the supplementary counter affidavit, filed on 22.06.2023, on behalf of Respondent no. 3 to 8, learned counsel for the petitioner submits that the land purchased by the husband of the petitioner has not been acquired under ceiling proceeding inasmuch as the same is part and parcel of 1.84 acres land of plot no. 35 under Khata no. 16 mentioned in Appendix “*Gha*” of the District Gazette published under Land Ceiling Case No. 74/1984-85.

5. It is contended on behalf of State that the District officials are of the view that till disposal of the contempt application, the grant of ‘No Objection Certificate’ must be kept in abeyance and accordingly, the District Magistrate, Gaya, vide letter no. 592 dated 31.05.2022, has deferred the matter of granting ‘No Objection Certificate’ to the petitioner till the disposal of M.J.C. No. 127 of 2020.

6. It is not in dispute that the land purchased by the husband of the petitioner has not been acquired under the ceiling proceeding and the same is part and parcel of 1.84 acres land of plot no. 35 under Khata no. 16 mentioned in Appendix “*Gha*” of the District Gazette published under Land Ceiling Case No.



74/1984-85. It is also not in dispute that the record of right related to the said piece of land was mutated in the name of the husband of the petitioner, by Jamabandi No.64, and rent receipts were dully issued in favour of husband of petitioner. It is also not in dispute that the order passed by this Court in C.W.J.C. No. 7809 of 2018 has already been complied with by the State authority by disposing of the representation filed by the petitioners of that case (i.e. *Dilchand Bhuiya & Others*), vide order dated 30.07.2019. Admittedly, there is no connection of the land in question with the aforesaid writ application i.e. C.W.J.C. No. 7809 of 2018.

7. In that view of the matter, 'No Objection Certificate' cannot be denied merely on the ground of pendency of M.J.C. No. 127 of 2020 before this Court. In absence of any restraint order by the High Court, issuance of '*No Objection Certificate*' cannot be denied.

8. Accordingly, the impugned order, as contained in letter no. 592 dated 31.05.2022, issued by the District Magistrate, Gaya whereby the application of the petitioner for granting of '*No Objection Certificate*' has been rejected, is, hereby, set aside with a direction to the District Magistrate, Gaya to pass appropriate order in accordance with law preferably within a period of one month from the date of receipt / production of copy of this order.



9. The writ application is allowed.

(Prabhat Kumar Singh, J)

Anay

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	08.02.2024
Transmission Date	N/A

