

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14413 of 2022

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Siddharth Suman S/o Sukan Paswan R/o Sadhadambar, PS Motipur, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Muzaffarpur.
2. The District Magistrate-cum-Collector, Muzaffarpur.
3. The Senior Deputy Collector (Incharge), District General Administration Cell Muzaffarpur.
4. M/s Hindustan Petroleum Corporation Ltd. through its Chairman and Managing Director, having its registered office at 17, Jamshedjee Tata Road, Mumbai 400020.
5. The Deputy General Manager (Retail) Hindustan Petroleum Corporation Ltd. Begusarai Retail Regional Office, 2nd Floor, Raghunath Place, Har Har Mahadev Chowk, NH 31, Begusarai.
6. The Sales Manager, Hindustan Petroleum Corporation Ltd., Muzaffarpur.
7. Rajdeo Rai S/o Late Mahinder Rai R/o Nawamagar Nizamat PS Sahebganj District- Muzaffarpur.
8. Arjun Rai S/o Rajdeo Rai R/o Nawamagar Nizamat PS Sahebganj District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanat Kumar Mishra, Adv.
For the Respondent/s	:	Mr. Arvind Kr. Singh, Adv.
	:	Mr. Santosh Kumar, Adv.
For H.P.C.L.	:	Mr. Neeraj Kumar Gupta, Adv.

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

10 21-01-2025 Heard learned counsel for the parties.

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

*“That by this writ petition, the
petitioner craves indulgence of this
Hon'ble court (1) for issuance of a writ
of Certiorari for setting aside the
decision dated 25/2/2019 of the*

respondent no. 2 as communicated vide letter no. 1742 dated 21/10/2019 issued by the respondent no. 3 whereby the authority has decided to refuse the issuance of 'No Objection Certificate' for the time being to the petitioner for establishing Petrol Pump Retail Outlet in the light of pendency of a partition suit in civil court and (II) for issuance of a writ of Mandamus for directing and commanding the respondent no. 2 to issue the No Objection Certificate (No Objection Certificate) in favour of the petitioner/HPCL to establish petrol pump on land bearing khata no. 353 khesra 895 situated at village Nawanagar Nizamat PO Karnal, thana 28, ward 13 Sahibganj Nagar Panchayat district Muzaffarpur and further for issuance of any other writ/ writs/direction/ directions/order/orders as your lordships may deem fit in the facts and circumstances stated herein after.”

3. Learned Counsel appearing on behalf of the petitioner has stated that the petitioner has applied for grant of No Objection Certificate (NOC) to the Respondent No. 2 for the purpose of establishment of a retail outlet in the advertised area issued by Respondent No. 4 herein. Learned Counsel has stated that the subject land was originally purchased by one Dukhit Rai and after his demise his two sons, namely, Sri Uma Shankar Rai and Sri Hari Shankar Rai have entered into a lease agreement

for an area of 0.45 acre, out of the total land of 1.22 acre, in favour of the petitioner and to that effect registered lease deed has also been executed in his favour. Learned Counsel further stated that as per the procedure adopted by the Respondent No. 4, the petitioner is obligated to submit “No Objection Certificate” from various authorities including the Respondent No. 2. The Respondent No.2 on the basis of objections filed by the Respondent Nos. 7 and 8 has declined to issue the “No Objection Certificate” on the ground that a partition suit filed by the Respondent Nos. 7 and 8 which is pending adjudication. Learned Counsel has stated that the Respondent Nos. 7 and 8 are distant relatives of Sri Dukhit Rai and have nothing to do with the subject property. That the suit was filed only to create hurdles and cause hardship to the petitioners and the true owner. Learned Counsel has further stated that by the time the decision is taken and the judgment rendered by the Civil Court in the partition suit filed by the Respondent Nos. 7 and 8, the petitioner will suffer irreparable loss, as they have spent considerable amount in developing the land and also for getting the registration of the lease deed done in their favour. Further, it is stated that the chances of any success filed by the Respondent Nos. 7 and 8 (in the Partition Suit) are very remote neither the

petitioner nor his lesser can be put to any disadvantageous position solely on the ground that suit for partition is pending. Learned Counsel has further stated that the authority-Respondent No. 2 has not given any reasons except the above for not issuing the “No Objection Certificate”.

3. Per counter, the learned Counsel appearing on behalf of the Respondent Nos. 7 and 8 has vehemently opposed the very maintainability of the present writ petition and has stated that the Respondent Nos. 7 and 8 have filed a suit for partition and the same is pending adjudication. Learned Counsel has further stated that in case any orders are passed in favour of the petitioner, the third party interest will be created and even if the Respondent Nos. 7 and 8 succeed in the suit for partition, it would be difficult to execute the Decree granted in their favour. Learned Counsel has, therefore, prayed this Hon’ble Court to dismiss the present writ petition.

4. Learned Counsel appearing on behalf of the HPCL has stated that the order passed by the District Magistrate suffers from illegality, as there are no reasons given except that the suit for partition is pending. Learned Counsel has, therefor, prayed this Hon’ble Court to pass necessary orders on merits.

5. A perusal of the pleadings as well as the documents

filed by the petitioner as well as the contesting respondents reveal that the Respondent No. 2 has declined to issue the “No Objection Certificate” solely on the ground that suit for partition is pending between original lesser and the Respondent Nos. 7 and 8. Admittedly, the suit is filed in the year 2013 and it will take considerable time for the Trial Court to adjudicate the suit and pass judgment. Further, it is to be noted that as on date there is no stay order granted by the Trial Court, in the suit for partition. Further, even if the Respondent Nos. 7 and 8 succeed in the suit filed by them, the area which has been leased out is only 0.45 acre, where as the total area in the partition suit is approximately 11.51 acres, therefore, it cannot be said that the Respondent Nos. 7 and 8 will put to any disadvantageous position and that the judgment and decree, if any granted in their favour cannot be executed. The shares of the parties can be distributed even if any decree is granted in favour of the Respondent Nos. 7 and 8.

6. Having regard to the facts and circumstances, the impugned order is set aside. The matter is remanded back to the District Magistrate to reconsider the matter afresh duly taking into consideration the observations made by this Court and pass necessary orders, as expeditiously as possible, preferably within

a period of eight weeks from the date of receipt of the copy of this order. It is needless to mention that before passing any order the District Magistrate shall put the petitioner on notice and give him an opportunity of hearing. Any order passed shall be communicated to the parties.

7. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy, J.)

Jyoti Kumari/-

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