
(2015) 01 JH CK 0115
In the Jharkhand High Court
Case No : WP(C) No. 4156 of 2013

Krishna Kumar Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-01-2015

Acts Referred:

Citation : (2015) 2 JLJR 417 : (2015) 3 AJR 726

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : M.K. Sinha and Abhijeet Kumar Sinha, for the Appellant

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—Seeking cancellation of distributorship and storage allotted to respondent No. 9 for L.P.G. under Rajiv Gandhi Gramin L.P.G. Vitrak Yojna, the present writ petition has been filed. Briefly stated, pursuant to advertisement dated 17.10.2009 published in the local newspapers namely, "Prabhat Khabar" and "Dainik Jagaran" for selection of Rajiv Gandhi Rural L.P.G. distributor for Huntergunj, Chatra, six applications were received and the application of respondent No. 9 was found eligible. Field verification was conducted by the officials of H.P.C.L during which the respondent No. 9 was found fulfilling all common eligibility criteria and accordingly, the RGGLV distributorship was awarded to respondent No. 9 which has been commissioned on 26.5.2013. The petitioner raised objection to the allotment of "RGGLV" distributorship to respondent No. 9 and his son sent a legal notice dated 6.9.2012 seeking cancellation of L.P.G. distributorship awarded to respondent No. 9. It is stated that though an applicant must own clear ownership title of the property, the respondent No. 9 submitted false and forged land documents. The respondent No. 9 purchased joint agricultural land from her own husband vide sale deed dated 18.8.2010 and she got her name mutated in the revenue records. On the objection raised by the petitioner, the Circle Officer, Huntergunj made a recommendation to the Deputy Collector Land Reforms, Chatra for

cancellation of mutation in the name of respondent No. 9. The petitioner has claimed that no partition of the joint family properties has taken place and the land conveyed to the respondent No. 9 vide sale deed dated 18.8.2010 was mutated in the name of his grandfather.

2. In the counter-affidavit, the respondents have taken a preliminary objection as to the maintainability of the writ petition on the ground of serious disputed questions of fact being involved in the writ petition. It is stated that the dispute is amongst the family members and in this connection Title Suit No. 35 of 2013 is pending in the Court of Civil Judge, Senior Division-cum-Sub-Judge-I, Chatra in which respondent No. 9 has been arrayed as defendant No. 1. With respect to prayer seeking cancellation of mutation in the name of respondent No. 9, it is stated that the same cannot be granted in the present proceeding and moreover, the issue is pending before the Deputy Collector Land Reforms, Chatra. It is further stated that the petitioner was not an applicant for award of L.P.G. distributorship for Chatra.

3. The learned counsel for the petitioner submits that, in spite of mandatory provisions contained in the brochure for selection of Rajiv Gandhi Rural L.P.G. distributors, the respondent-H.P.C.L. has awarded the L.P.G. distributorship for Huntergunj to the respondent No. 9. The respondent No. 9 does not own and possess clear ownership over the land which she has proposed for construction of L.P.G. cylinder storage godown. It is further submitted that, the joint family property has been fraudulently sold by the husband of respondent No. 9 in her favour and though the Circle Officer made recommendation for cancellation of mutation, the Deputy Collector Land Reforms has not taken any action in the matter. On these grounds, cancellation of L.P.G. distributorship to respondent No. 9 has been sought.

4. The learned counsel appearing for the respondent-H.P.C.L. reiterated the stand taken in the counter-affidavit and submitted that, present writ petition is liable to be dismissed with cost.

5. I have carefully considered the submission of the learned counsel for the parties and perused the documents on record.

6. From the materials brought on record, it appears that there is a family dispute between the petitioner and respondent No. 9 which led to filing cases before the Circle Officer, the civil court and this Court. The petitioner has sought cancellation of L.P.G. distributorship awarded to respondent No. 9 on the ground that she does not own clear title over the land which according to the petitioner is a joint family property. It also appears that the respondent No. 9 has submitted a sale deed through which title has been conveyed to respondent No. 9 however, Title Suit No. 35 of 2013 has been filed seeking a declaration that the sale deed dated 18.8.2010 is null and void. To a pointed query, how the petitioner is affected by award of L.P.G. distributorship to the respondent No. 9 and what is the injury caused to the petitioner in consequence of allotment to

respondent No. 9, the learned counsel for the petitioner submits that, the land belongs to the joint family and thus, the petitioner has been deprived of his right over the joint family property.

7. It is well settled that the writ petitioner must establish a legal right in himself and a corresponding duty in the State. In *Rai Shivendra Bahadur Vs. The Governing Body of the Nalanda College*, AIR 1962 SC 1210 : (1962) 4 FLR 507 : (1962) 1 LLJ 247 : (1962) 2 SCR 144 Supp , the Hon"ble Supreme Court has held that, "in order that mandamus may issue to compel the respondents to do something it must be shown that the Statutes impose a legal duty and the appellant has a legal right under the Statutes to enforce its performance".

8. The petitioner has failed to disclose a legal right in him and a corresponding duty in official respondents which they have failed to discharge. The present writ petition is an outcome of family dispute. I do not find any merit in the writ petition and accordingly, it is dismissed.