

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22035 of 2012

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Ramadhar Giri S/O Late Bindeshwari Giri R/O Village- Bhijadi, P.S.- Desari, P.O.-
Sahdei Bujurg, District- Vaishali At Hajipur

.... Petitioner

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur
3. The Deputy Collector, Land Reforms, Mahnar, District- Vaishali
4. The Anchal Adhikari, Sahdei Bujurg, District-Vaishali At Hajipur
5. Sardar Giri S/O Late Bhagwat Giri R/O Village- Bhijadi, P.S.- Desari, P.O.-
Sahdei Bujurg, District- Vaishali At Hajipur

.... Respondents

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Appearance :

For the Petitioner : M/S Naresh Chandra Verma and
Natraj Verma, Advocates

For the State : Mr. Neeraj Kumar, A.C. to S.C.22

For Respondent No.5 : Mr. Subhash Patel, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-01-2015

I.A. No. 7881 of 2014

Heard learned counsel for the petitioner, the State and
the respondent no. 5.

This interlocutory application has been filed for
amendment in the writ application as the writ petitioner also seeks
quashing of the original order passed by the Deputy Collector, Land
Reforms, i.e., respondent no. 3, in B.L.D.R. Case No. 64 of 2011-12
contained in Annexure 4. He has already challenged the appellate
order.

In above view of the matter, this interlocutory
application is allowed. The relief mentioned in paragraph 4 of this
interlocutory application would form part of the writ petition and in

the prayer portion also such amendment as stated in paragraph 5 would stand included.

C.W.J.C. No. 22035 of 2012

I have heard learned counsel for the petitioner, the State and the respondent no.5.

This application is being disposed of at this stage with the consent of the parties.

Petitioner has challenged the order dated 5.3.2012 passed by the D.C.L.R. in B.L.D.R. Case No.64 of 2011-12, by which he has directed the Anchal Amin to measure the land and deliver the possession of the land concerned in favour of the respondent no.5 in view of the fact that revisional survey entry stands in his name. The petitioner, thereafter, challenged the order by filing appeal before the Divisional Commissioner which was dismissed on the ground of delay vide Annexure-2 dated 11.9.2012. It is submitted on behalf of the petitioner that Title Suit No.7 of 2012 was filed by the petitioner under wrong advice for challenging the order that was passed by the D.C.L.R. but later on it was withdrawn and appeal was filed and, thus, the delay stood explained still the appeal has been dismissed on the ground of limitation.

Since the aforesaid order has not been passed on merit and it appears that the delay was sufficiently explained by the petitioner, the appellate order contained in Annexure-2 is quashed and set aside and the matter is remitted back to the Commissioner to pass

a fresh order after granting opportunity to all the parties concerned on its own merit and in accordance with law.

It is made clear that this Court has not formed or expressed opinion with regard to the merit of the cases of the respective parties but the petitioner would be at liberty to raise the issue of maintenance of the B.L.D.R. case in view of the decision of a Division Bench of this Court in **Maheshwar Mandal and another vrs. The State of Bihar and others, 2014(3) PLJR 281.**

Accordingly, this writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

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