

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2988 of 2013

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Mehar Angez Bibi, W/O Ajmat Ali, R/O Mohalla- White House
Compound, P.S.- Rampur, Distt.- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department Of Revenue, Land Reform, Govt. Of Bihar, Patna
2. The Commissioner, Magadh Division, Gaya
3. The Additional Collector, Gaya
4. The Land Reforms Deputy Collector, Sherghaty, Gaya
5. The Anchal Adhikari, Dumari, Gaya
6. Shamsh Farooque Khan, S/O Late Haji Md. Ismail Khan, R/O Village+ P.O.- Bikopur, P.S.-Kothi, Distt.- Gaya
7. Maqhsood Ahmad Khan, S/O Late Haji Md. Ismail Khan, R/O Village- Chonha, P.O.- Maigra, P.S.- Dumaria, Distt.- Gaya
8. Amjharun Nisha, W/O Haji Saifullaah Khan, D/O Late Haji Ismail Khan C/O Ajmat Ali, R/O Mohalla- White House Compound, P.S.- Rampur, Distt.- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nand Kishore Prasad Sinha
For the Respondent nos.1to5	:	Mr. Akhileshwar Singh, AC to GA-3
For the Respondent no.8	:	Mr.Santosh Kumar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 03-11-2015

Heard the parties.

The petitioner is aggrieved by the order dated 13.09.2012 (Annexure-7) passed by the respondent Commissioner, Magadh Division, Gaya, whereby the Land Dispute Resolution Appeal No.189 of 2012 filed on behalf of the petitioner against the order dated 08.04.2012 passed by the respondent D.C.L.R., Sherghati, Gaya has been dismissed on the ground of being barred

by limitation.

Learned counsel appearing on behalf of the petitioner submits that the petitioner, being aggrieved by the order dated 08.04.2012 passed in Case No.07 of 2011-12 by the respondent D.C.L.R., Sherghati, Gaya under the provisions of The Bihar Land Disputes Resolution Act, 2009, preferred the aforesaid Appeal No.189 of 2012. According to him, since the delay in filing the aforesaid appeal was about one month; therefore a petition under the Limitation Act was also filed for condonation of such delay, but the respondent Divisional Commissioner without considering the aforesaid limitation petition has mechanically dismissed the aforesaid appeal on the ground of being barred by limitation.

Though, the present writ petition was filed on 08.02.2013 and notices were issued to the private respondent nos.6 to 8, but till date no counter affidavit has been filed on behalf of the respondents controverting the averments made in the writ petition.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the matter requires re-consideration and fresh decisions on merits by the Divisional Commissioner. Accordingly, the impugned order dated 13.09.2012 passed in Land Dispute Resolution Appeal No.189 of 2012 (Annexure-7) by the respondent Divisional Commissioner, Magadh Division, Gaya is hereby set aside and quashed and the matter is remitted back to the Divisional Commissioner, Gaya with a direction to decide the aforesaid appeal on merits. The limitation occurred in filing the aforesaid appeal stands condoned.

The parties shall be at liberty to raise all the issues of

facts an law, which may be available to them, with respect to the lands under dispute.

The writ petition stands allowed to the extent indicated above as also with the observations and directions made above.

Arvind/-

(Birendra Prasad Verma, J)

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