

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21277 of 2011

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Rajiv Ranjan Tiwary, S/O Late Lakshmi Narayan Tiwary, resident of
Basudevpur, Bharhara Kothi, Purnea.

.... Petitioner/s

Versus

1. The State of Bihar through Collector of Purnea, District Purnea.
2. Shri Awadesh Tiwary, S/O Late Rajendra Pd. Tiwary, Resident of
Basudeopur, Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saket Tiwary

For the Respondent no.1 : Mr. Shailendra Kumar Jha, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 08-09-2015

Heard the parties.

By the impugned order dated 19.11.2010 passed by the District Collector, Purnea (Annexure-1), Mutation Revision Case No.168 of 2010 filed on behalf of the respondent no.2 has been admitted for hearing, lower court records have been called for and notice has been issued to the opposite party.

Learned counsel appearing on behalf of the petitioner submits that the aforesaid revision application filed on behalf of the respondent no.2 under Section 16 of The Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (in short 'Act, 1973') was not maintainable and could not have been admitted by the respondent District Collector, as it was filed beyond 30 days of period of limitation.

It is not in dispute that the Act, 1973 has now been repealed by virtue of provisions contained in Section 23(1) of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011'). Section 23(2) of Act, 2011 starts with a non-obstante clause and it provides that despite repeal of Act, 1973 any action taken or anything done in exercise of the powers conferred under the Act,

1973 shall be construed to have been done or action taken under the provisions of the Act, 2011, as if the Act, 2011 was in vogue at that time. For better appreciation Section 23 of the Act, 2011 is reproduced hereinbelow:-

23. Repeal and Savings.- (1) The Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (Bihar Act 28 of 1975) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of the powers conferred by or under the said Act shall be deemed to have been done or taken in exercise of power conferred by or under this Act, as if this Act were in force on the day on which such thing or action were done or taken.

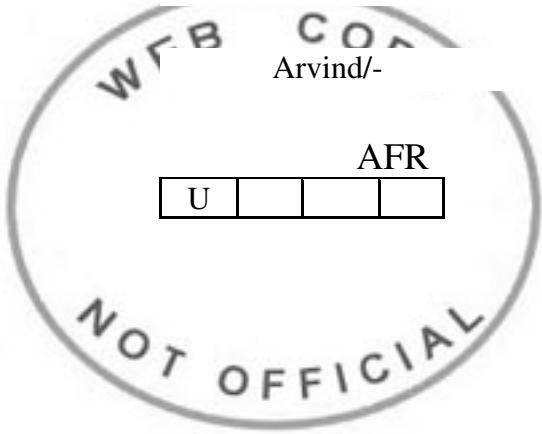
Section 8 of the Act, 2011 provides that the revision shall lie before the Collector or the Additional Collector of the District. Section 8(3) of the Act, 2011 provides that the Collector/Additional Collector may condone the delay in filing the application for revision.

In view of the provisions contained in Section 23 read with Section 8 of the Act, 2011, this Court is of the opinion that the challenge to the impugned order dated 19.11.2010 admitting the revision application for final hearing, which was filed beyond the period of limitation, cannot be sustained in law, as the revisional authority has been empowered to condone the delay and decide the revision application on merits.

In above view of the matter the writ petition has to fail and is, accordingly, dismissed.

The order of stay passed by a Bench of this Court on 19.12.2011 is hereby vacated. Now, the Mutation Revision Case No.168 of 2010 filed by the respondent no.2 shall be decided on merits by the District Collector, Purnea after giving opportunity of

hearing to all concerned.



(Birendra Prasad Verma, J)