

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.651 of 2015

IN

Civil Writ Jurisdiction Case No. 11072 of 1996

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Awadhesh Kumar Singh @ Awdhesh Kumar Singh, Son of Late Kapil Deo Narain Singh, R/o Village - Chapar (Mal) Mohaddinagar P.S.- Mohaddinagar, District- Samastipur.

.... Petitioner/Appellant

Versus

1. The State of Bihar
2. The District Magistrate, Samastipur.
3. Anchal Adhikari, Mohaddinagar, District- Samastipur.

.... Respondents/Respondents

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Appearance :

For the Appellant/s : Mr. Vindeshry Kumar, Sr. Adv.
Mr. Ajay Kumar Singh, Adv.

For the Respondent/s : Mr. Indrajeet Bhushan, A.C. to GP2

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-05-2015

The appellant filed C.W.J.C. No.11072/96 challenging an order dated 18.9.1996/26.9.1996, passed by the Collector, Samastipur in relation to encroachment proceedings initiated against their, predecessors in title, in respect of about 5 decimals of land in Samastipur District. The writ petition was

taken up for hearing on 6.2.2015. Taking note of the fact that there was no representation on behalf of the petitioners, Learned Single Judge dismissed the writ petition through order dated 6.2.2015. Discussion was also undertaken on merits. Hence, this Appeal.

Nearly two decades, after it was filed, the writ petition was listed for hearing. For one reason or the other, there was no representation for the appellant. The options, that are available to a Court, when there is no representation for the plaintiff or petitioner; are fairly well-known. Either the matter can be adjourned or it can be dismissed for default. The question of expressing view on merits does not arise.

We are of the view that the matter can be heard on merits if the petitioners cooperate and if there is no cooperation from the petitioners, it can be dismissed for default, as held by the Hon'ble Supreme Court in Kishori Prasad Vs. The State of Bihar & Ors.¹

On the short ground that the matter was decided on merits in the absence of the counsel for the

1. 2008(2) P.L.J.R. 458.

petitioner, we allow the Appeal and set aside the order dated 6.2.2015. Writ petition shall be heard afresh and disposed of by the Learned Single Judge. The arrangement that was in force during the pendency of the writ petition, shall continue. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-

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