

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11981 of 2011

=====

Nityanand Roy Late Nirbhay Roy Vill-Kathaghara, P.O Gogri, P.S-Gogri,
Dist- Khagaria

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Khagaria
2. The Collector, Khagaria
3. The Deputy Collector Land Reforms, Gogri, Khagaria
4. Amol Chandra Roy Late Less Nath Roy, Vill- Kathmagarh , P.S-Gogri
P.O- Gogri, Dist-Khagaria
5. Chandra Shekhar Roy Late Mathura Prasad Roy, Vill- Kathmagarh , P.S-
Gogri P.O- Gogri, Dist-Khagaria

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Harshwardhan Sahay
Mr. Rajeev Kumar Sinha

For the Respondent No.1 to 3 : Mr. Shubhangar Sharma, AC to GP-XI

For the Respondent No.5 : Mr. Abdul Manan Khan
Mr. Md. Najmul Hoda

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 03-09-2015 Heard the parties.

The petitioner is aggrieved by the order dated 05.04.2011 (Annexure-4) passed by the respondent District Collector, Khagaria in Jamabandi Correction Appeal No. 2 of 2010-11, whereby the aforesaid appeal filed on behalf of the petitioner has been dismissed mechanically and by a non-speaking order as time barred.

Learned counsel appearing on behalf of the petitioner submits that the petitioner, being aggrieved by the order dated 29.06.2010 (Annexure-1) passed by the respondent D.C.L.R., Gogari, preferred appeal on 12.08.2010 after obtaining certified copy of the impugned original order. It is also submitted that since there was a delay of few days in filing the appeal, a petition under Section 5 of the Limitation Act was filed for condonation of such delay by giving sufficient reasons for condonation of delay, but

the respondent District Collector has dismissed the appeal of the petitioner by writing only one line order that the appeal is time barred.

The matter has been contested by the learned counsel appearing on behalf of the respondents, but they have not been able to show that any valid reason for rejection of the appeal or the limitation petition filed on behalf of the petitioner was recorded.

In the considered opinion of this Court, the impugned order dated 05.04.2011 passed in Jamabandi Correction Appeal No. 2 of 2010-11 (Annexure-4) by the respondent District Collector, Khagaria, cannot be sustained in law, since apparently it is a non-speaking and mechanical order. No reason whatsoever has been recorded for rejecting the petition for condonation of delay filed on behalf of the petitioner.

In above view of the matter, the impugned order dated 05.04.2011 (Annexure-4) passed by the respondent District Collector, Khagaria in Jamabandi Correction Appeal No. 2 of 2010-11 is hereby set aside and quashed, and the matter is remitted back to the respondent District Collector, Khagaria to consider the appeal of the petitioner on merit after condonation of delay in filing the aforesaid appeal.

The present writ petition stands allowed to the extent indicated above.

The parties shall be at liberty to raise all the issues of facts and law before the respondent District Collector, Khagaria with respect to the lands under dispute, which may be available to them.

(Birendra Prasad Verma, J)

BTiwary/-

U			
---	--	--	--