

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18753 of 2008

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1. M/s Chaniya Devi, wife of late Kamal Sah, W/o late Kamal Sah, resident of village&P.S.-Maniyari, District-Muzaffarpur (expunged vide order dated 19.05.2015 and substituted by her following heirs and legal representatives)

- (i) Satrugan Sah, son of late Kamal Sah
(ii) Satya Narayan Sah, son of late Kamal Sah
(iii) Shit Narayan Sah, son of late Kamal Sah

All resident of village-Mahanth Maniyari Tole Kishanpur, P.S.-Maniyari, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Joint Director, Consolidation, District-Muzaffarpur.
3. Deputy Director of Consolidation, Muzaffarpur.
4. Consolidation Officer, Kurahani Block, District-Muzaffarpur.
5. Upandara Sah
6. Kishori Sah
7. Bhikari Sah
All are sons of late Baleshwar Sah
8. Rakhaur Sah
9. Akloo Sah

Both are sons of late Parmeshwar Sah @ Rameshwar Sah

Respondent nos.5 to 9 are residents of village-Sundarpur Maniali Tola Kishanpur Mahant Maniyari, P.S.-Maniyari, District-Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pancham Lal Jaiswal
Mr.Raju Kumar Goshwami
For the Respondent nos.1to4: Mr. Gautam Bose, AAG-8
Mr.Sanat Kumar Mishra
Mr.Rohit Mishra

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

8 11-08-2015

Heard the parties.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 31.03.2008 (Annexure-3) passed in Consolidation Revision No.53 of 1994 by the respondent no.2, whereby the aforesaid Revision Application filed on behalf of the respondent no.5 and others was allowed.

Learned counsel appearing on behalf of the petitioners has raised only one point that the aforesaid Revision Application was filed after delay of about 10 years against the appellate order dated 08.06.1984. Therefore, according to him, the impugned order is liable to be set aside by this Court.

I am afraid the submissions made by the learned counsel appearing on behalf of the petitioners cannot be countenanced for the reasons that the order admitting the aforesaid Revision Application and condoning the delay in filing the aforesaid Revision Application has not been brought on record and that order has not even been challenged.

The petitioner is aggrieved by the final order passed by the revisional authority. The condonation of delay with respect to any lis depends on many factors and relevant factors are required to be taken into consideration by the competent authority/court/ tribunal while condoning any delay, depending upon the facts of that particular case.

In the present case, admittedly, notice was issued to the original petitioner, the deceased mother of the present petitioners, by the revisional authority and the petitioner entered appearance and was heard before passing the impugned order. At that stage no such objection was raised and the petitioner surrendered to the jurisdiction of the revisional authority and waited for favourable order in her favour. Once the order has gone against the petitioner, she has filed the present writ petition assailing the validity and correctness of the final order on the ground of delay alone. Since the original petitioner surrendered to the jurisdiction of the revisional authority and did not challenge the order condoning the delay in filing the aforesaid Revision Application, then she or her heirs i.e. the present petitioners cannot

be permitted to raise that ground at this stage once the final order has been passed.

The writ petition seems to be completely misconceived and is, accordingly, dismissed, but without costs.

Arvind/-

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(Birendra Prasad Verma, J)