

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1636 of 2012
IN
Civil Writ Jurisdiction Case No. 7347 of 2007**

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1. Bahar Murtaza Ali Mother of Late Faiz Murtaza Ali
 2. Shahnaz Ali wife of Late Faiz Murtaza Ali resident of 112, Ground Floor, Uday Park, New Delhi- 110049
 3. Seher Ali Daughter of Late Faiz Murtaza Ali and wife of Bhisham Saini resident of 48, Uday Park, New Delhi- 110049

.... Appellant/s

Versus

1. The State of Bihar
 2. The District Magistrate, Patna
- Respodnent- Respodnent 1st Set.
3. Syed Askari Hadi Ali Augustine Imam S/O Late Syed Hassan Imam R/O 'Kheliyan', Village- Kisura, P.S.- Hazaribagh Muffasil, District- Hazaribagh (Jharkhand).

.... Respondent –Respondent 2nd Set.

4. Mrs. Tahmina Imam Punwani D/O Late Syed Akbar Imam Presently R/O 3rd Floor, Geetanjali Enclave, New Delhi, in the writ petition - R/O D-28, Press Enclave, Saket, New Delhi Through GPA Holder K.C.P. Singh @ Anil Kumar Singh, Old British Library, Bank Road, Patna
5. Dr. Sahida Hassan W/O Mr. Azfar Hassan Advocate, Chamber No. 25, Bar Council Bhawan, Patna
6. The Muzaffarpur Properties Private Limited through its Managing Director, Shri Amarnath Pandey S/O Late Raghunath Pandey R/O Mohalla- Muzaffarpur Town, Police Station- Muzaffarpur (Town), District- Muzaffarpur
7. Bihar State Shia Wakf Board through its Chief Executive Officer, Patna

.... Respondents- Respondents 3rd Set.

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Appearance :

For the Appellant/s	:	Mr. Shashank Shekhar Jha, Advocate
For the Respondents 1 & 2	:	Mr. Md. Faiz Ahmad, Advocte
For the respondent no.3	:	Mr. Abhinash Kumar, Advocate
For the respondent no.7	:	Mr. Syed Qaisar Hasan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-04-2015

This Letters Patent Appeal is filed by unsuccessful
petitioners in CWJC No.7347 of 2007.

The writ petition was filed challenging a decree dated

22.05.2003 passed by the Court of Subordinate Judge VII, Patna in Title Suit No.58 of 2003. The appellants were not parties to the suit. Several grounds were urged in the writ petition. The learned Single Judge dismissed the writ petition through order dated 28.08.2012. In the appeal also, same grounds are urged.

Heard Sri Shashank Shekhar Jha, learned counsel for the appellants, Sri Md. Faiz Ahmad, learned counsel for the respondents 1 and 2 and Mr. Abinash Kumar, learned counsel for the respondent no.3.

It has already been mentioned that the subject matter of the writ petition was a decree in a civil suit. It is just an understandable as to how the appellants filed the writ petition against a decree. If a party to the suit feels aggrieved by the decree passed therein, the only remedy available to him is to file an appeal under Section 96 of the Code of Civil Procedure or any other special law which applies to the facts of the case. If, on the other hand, a person, who is not a party to the suit, feels aggrieved by the decree, two courses are open to him. The first is to file an appeal with the leave of the appellate Court. The second is to file a separate suit for cancellation of the decree. The appellants herein, did neither and filed a writ petition. On the face of it, the writ petition was not maintainable.

The learned Single Judge has taken correct view of the matter. We do not find any basis to interfere with the order passed by the learned Single Judge.

Hence, the appeal is dismissed.

Learned counsel for the appellants submits that liberty may be given to the appellants to pursue the remedies. We make it clear that it shall be open to the appellants to pursue the remedies and in the context of limitation; he can even press into service Section 14 of the Limitation Act, to the extent it is permissible in law.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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