

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17315 of 2013

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1. Ashok Kumar, S/O Shri Kalicharann Singh
2. Manoj Kumar, S/O Shri Kalicharann Singh
Both Resident of Village - Saren, P.S. Bathani, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms
Department, Govt. Of Bihar, Patna
2. The Commissioner, Magadh Division, Gaya, District - Gaya
3. The District Magistrate, Gaya, District - Gaya
4. The Deputy Collector, Land Reforms, Neemchak Bathani, Head Quarter
Khijarsarai, District - Gaya
5. The Circle Officer, Neemchak Bathani, District - Gaya
6. Vijay Kumar, S/O Yogendra Singh, Resident of Village - Saren, P.S.
Bathani, District - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
Mr. Deepak Kumar, Adv.
Mr. Rajiv Ranjan, Adv.
For the Respondent nos. 1 to 5 : Mr. Manoj Kumar, AC to GA-10
For the Respondent no. 6 : Mr. Amrendra Kumar Sinha No.-1, Adv.
Mr. Raj Kumar Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 08-12-2015 Heard the parties.

The petitioners are aggrieved by the order dated 16.05.2013 passed in Land Dispute Resolution Appeal No.100 of 2013 by the respondent Commissioner, Magadh Division, Gaya, as contained in Annexure-4, whereby the aforesaid appeal preferred on behalf of the petitioners in terms of Section 14 of The Bihar Land Disputes Resolution Act, 2009 (in short 'Act, 2009') has been dismissed, not on merit rather on the ground of limitation.

The learned counsel appearing on behalf of the petitioners submits that against the original order dated 28.02.2013



passed by the respondent D.C.L.R., Neemchak Bathani, as contained in Annexure-3, the petitioners filed their appeal before the Commissioner under Section 14 of the Act, 2009. According to him, though there was a delay of 11 days in filing the aforesaid appeal and for that the petitioner had filed a petition for condonation of such delay, but the respondent Commissioner, without considering the petition filed on behalf of the petitioner for condonation of such delay in its proper perspective, has mechanically rejected the aforesaid appeal, being barred by limitation.

The learned AC to GA-10 appearing on behalf of the official respondents and the learned counsel appearing on behalf of the respondent no.6, though have opposed the prayer made on behalf of the petitioners on merits, but they have not been able to show that the appeal preferred on behalf of the petitioners was decided on merits.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the matter requires re-consideration and fresh decisions by the appellate authority. The delay of 11 days in filing the appeal, for the reasons disclosed by the petitioners, could have been condoned, which was not a delay for a huge period. The statutory authorities, though are legally entitled to dismiss any application or appeal on being barred by limitation, but endeavours should be there to decide the claims of the parties on merits, so that poor litigants do not suffer the hardship of moving from one court to another for getting justice.

For the reasons recorded above, the impugned appellate order dated 16.05.2013 passed in Land Dispute

Resolution Appeal No.100 of 2013 by the respondent Commissioner, Magadh Division, Gaya, as contained in Annexure-4, is hereby set aside and quashed and the matter is remitted back to the respondent Commissioner for deciding the aforesaid appeal of the petitioners on merits, after giving an opportunity of hearing to all concerned, including the petitioners and the private respondent no.6, besides others, if any.

In order to expedite the matter, the petitioners and the respondent no.6 are hereby directed to appear before the respondent Commissioner, Magadh Division, Gaya with a certified copy of the present order within a period of one month from today, whereafter the respondent Commissioner shall proceed further for deciding the aforesaid appeal afresh on merits strictly in accordance with law, but, before passing any final order, an opportunity of hearing must be given to all concerned including the petitioners and the private respondent no.6.

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

The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Arvind/-

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