

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.508 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 5237 of 2014
Along with
Interlocutory Application No. 2275 of 2015

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1. Bhola Pd. Yadav S/o Late Parmeshwar Prasad Yadav.
 2. Maheshwar Prasad Yadav , S/o Late Parmeshwari Prasad Yadav
- Both are residents of Village- Ekania, P.S. Mansi, District Khagaria.

.... Appellant/s

Versus

1. The State of Bihar.
 2. The Commissioner, Division, Munger, District Munger.
 3. The District Magistrate, Khagaria, District Khagaria.
 4. The Sub Divisional Officer, Khagaria cum Convenor Awadh Bihari Sanskrit College, Rahimpur, Khagaria.
 5. Deputy Collector Land Reforms, Khagaria.
 6. Circle Officer, Chautham, District Khagaria
 7. Circle Inspector, Chautham, District Khagaria
- Respondents 1st Set
8. Superintendent of Police, Khagaria, District Khagaria
 9. Deputy Superintendent of Police, Khagaria, District Khagaria
 10. Police Station Incharge, P.S. Mansi, District Khagaria
- Respondents 2nd Set
11. Principal, Awadh Bihari Sanskrit College, Khagaria, District Khagaria
- Respondents 3rd Set
- =====

Appearance :

For the Appellant/s : Mr. Abhay Kumar Singh, Advocate
Mr. Bharat Bhushan, Advocate.
For the Respondent/s : Mr. Kumar Alok- SC-8

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 18-05-2016

Re.: Interlocutory Application No. 2275 of 2015

The application is for condonation of delay of 70 days in filing of the appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, the delay of 70 days in filing of the appeal is condoned.

3. Interlocutory Application stands disposed of.

Re.: Letters Patent Appeal No. 508 of 2015

The order dated 12.11.2014 passed by the learned single Bench in CWJC No. 5237 of 2014 is the subject matter of challenge in the present Letters Patent Appeal. The learned single Bench has dismissed the writ petition in view of the order passed in earlier writ petition filed by the appellants, which was dismissed with liberty to move the trial court.

2. Admittedly, as per the aforesaid order passed by the Court on 01.05.2012 in CWJC No. 8462 of 2012, the appellants have filed civil suit. Once the civil suit has been filed, the appellants cannot invoke jurisdiction of this Court for any ad interim order.

3. In view thereof, we find that the invocation of jurisdiction of this Court for interim order was wholly misconceived and the same has rightly been dismissed by the learned single Bench. According, the present appeal is dismissed.

4. However, it may be stated that any observation made in the writ petition or in the present appeal is only for deciding the writ petition and the appeal, which shall not prejudice the claim of the writ petitioner before the civil court, which will decide the matter in accordance with law on the basis of the evidence led by the parties.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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