

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 351 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 1734 of 2009

Along with

Interlocutory Application No. 1652 of 2015

With

Interlocutory Application No. 9693 of 2015

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Khursid Alam, Son of Sahban Ansari, Resident of Village-Bhaijalhan, P.S. -
Gopalpur, Anchal - Kuchaikote, District - Gopalganj.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Collector, Gopalganj.
3. The Land Reforms Deputy Collector, Gopalganj.
4. The Anchal Padadhikari Kuchaikote, Gopalganj.
5. Parsuram Sah, Son of Makun Sah, Resident of Village- Baijalahan, P.S.
Gopalpur, District – Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jagannath Singh, Advocate.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 06-05-2016

Heard learned counsel for the parties.

Re.: Interlocutory Application No.1652 of 2015

The Interlocutory Application has been filed for
condonation of delay of 5 years and 314 days in filing of the
Letters Patent Appeal No. 351 of 2015.

Learned counsel for the appellant submits that the
challenge in the writ petition was to the order dated 27.11.2008
passed by the Collector, Gopalganj on wrong advice of the counsel
since the appeal filed by him before the Divisional Commissioner,



Saran was still pending. Thereafter, even the dismissal of the writ petition on 04.02.2009 was not conveyed to the appellant for about nine months and after that, the counsel had advised him to wait for the appeal to be decided by the Divisional Commissioner on merit. It is submitted that ultimately the appeal was dismissed by the Divisional Commissioner, Saran on 06.08.2012 against which he filed C.W.J.C. No. 12492 of 2013 and the same was allowed to be withdrawn on 06.01.2015 with liberty to file appeal against the order dated 04.02.2009 passed in C.W.J.C. No. 1734 of 2009 and, thus, the present appeal have been filed immediately thereafter.

Having considered the averments made in the Interlocutory Application and submissions of learned counsel for the appellant, we do not think that sufficient cause has been shown for condoning the delay of 5 years and 314 days. After dismissal of C.W.J.C. No. 1734 of 2009, upholding the order of the Collector, Gopalganj, the appellant had no other option but to file an appeal and plea of wrong advice by counsel cannot be a reason for condoning such long delay.

In view of the aforesaid, Interlocutory Application No. 1652 of 2015 stands dismissed.

Re.: Letters Patent Appeal No. 351 of 2015

The present intra-court appeal, under clause X of the Letters Patent of the Patna High Court, is directed against the order dated 04.02.2009 by which C.W.J.C. No. 1734 of 2009 filed

by the appellant has been dismissed.

Though, earlier we have dismissed the Interlocutory Application filed on behalf of the appellant for condoning the delay in filing of the Letters Patent Appeal, we have also considered the matter on merits and find that the order of the Collector, Gopalganj dated 27.11.2008 in Misc. Case No. 147 of 2006 does not suffer from any infirmity, as it has rightly been held that a person already having land cannot be given land under the Bihar Bhoodan Yagya Act, 1954. Such fact, recorded by the State officials based on local enquiry, cannot be assailed in writ proceedings.

Accordingly, we find no infirmity in the order of the learned Single Bench and the appeal stands dismissed on the ground of limitation as well as on merits.

Re.: Interlocutory Application No. 9693 of 2015

Interlocutory Application No. 9693 of 2015 for substitution, not being pressed stands disposed off.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

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