

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1349 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 17443 of 2013

Along with

Interlocutory Application No. 5896 of 2015

And

Interlocutory Application No. 5897 of 2015

=====

Meena Gupta wife of Sri Gagan Kumar Sen resident of Village and P.O. Laxmipur,
P.S. Barari, District Katihar.

.... Appellant/s

Versus

1. The State of Bihar through the Collector, Collectorate Office, Katihar.
2. The Collector, Collectorate Office, Katihar.
3. The Additional Collector, Collectorate Office, Katihar.
4. The Sub-Divisional Officer, Sub-Divisional Office, Katihar, P.O and District Katihar.
5. The Deputy Collector, Land Reforms, Katihar, D.C.L.R. Office, Katihar.
6. The Circle Officer, Barai Anchal, P.O. Guru Bazar, P.S. Barari, District Katihar.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Anil Kumar Sinha, Advocate

For the Respondent/s : Mrs. Binita Singh, G.P. 31

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

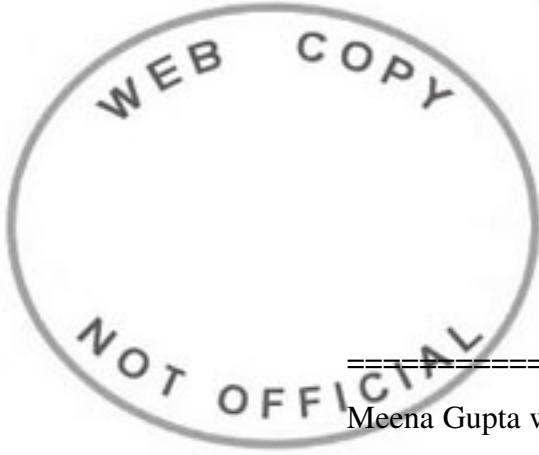
and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 25-04-2016



Heard learned counsel for the parties.

Re.: Interlocutory Application No. 5896 of 2015

Interlocutory Application has been filed seeking condonation of delay of 180 days in filing of the Letters Patent Appeal.

For the reasons assigned in the Interlocutory Application and upon hearing learned counsel for the parties, we find that sufficient cause has been shown by the appellant in not filing the appeal within time. Accordingly, the delay in filing of the appeal stands condoned.

Interlocutory Application No. 5896 of 2015 stands disposed off.

Re.: Interlocutory Application No. 5897 of 2015

Interlocutory Application has been filed seeking stay of the order dated 14.10.2014 passed in CWJC No. 17443 of 2013. Since the main appeal is being heard and disposed off, the Interlocutory Application having become infructuous, stands disposed off.

Re:- Letters Patent Appeal No. 1349 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 14.10.2014 passed by the learned single Bench of this Court in CWJC No. 17443 of 2013 by which the writ petition filed by the appellant has been dismissed.

The appellant, claiming to be a Below Poverty Line (B.P.L.) person, is said to have been granted settlement of 0.26 acre of land pertaining to Khata No. 666, Plot No. 1722, Thana No. 88 situated in Mauja Lakshmipur, Anchal Barari, Katihar. It is his further case that pursuant to the formalities, the Deputy Collector Land Reforms directed for settlement of the land with the appellant, upon which the '*parwana*' was issued but since the same did not contain the seal of the office of the Circle Officer, she filed a petition for its correction. When the same was not entertained, she moved this Court in CWJC No. 13844 of 2010 which was disposed off directing her to file a fresh representation before the Circle Officer, who, in turn, was directed to dispose off the same within six weeks. When the order of the Court was not complied with, the appellant again moved the Court in MJC No. 4639 of 2012, but in the meantime, the District Magistrate, Katihar, by order dated 22nd January, 2013, cancelled the settlement made in favour of the appellant. The appellant challenged the said order in CWJC No. 17443 of 2013 which has been dismissed by the order under appeal on 14.10.2014 by the learned single Bench.

Learned counsel for the appellant submits that she was a

B.P.L. lady having no residential house and thus the settlement in her favour was in accordance with law. Learned counsel submits that the Collector, Katihar could not have reopened the matter which had already attained finality and that the said cancellation, without giving any notice to her, is in violation of the principles of natural justice.

Learned counsel for the State submits that the stand of the appellant is erroneous. He submits that the report of the Sub-Divisional Officer clearly indicates that the appellant had different plan for the land in question and further, that she did not belong to the B.P.L. group, having her own residential house and telephone connection as well as sufficient ancestral land and the land adjoins N.H.-31 which may be required for widening and there was also an electric sub-grid adjoining the land.

Having considered the rival submissions, we find no merit in the contentions of learned counsel for the appellant. The learned single Bench, in view of the report of the Sub-Divisional Officer, by order dated 11th August, 2014, had directed the Divisional Commissioner to hold an enquiry and submit a report. Pursuant to the said direction, the Divisional Commissioner, Purnea submitted a report dated 20.09.2014, after an inspection made by him on 19.09.2014. The report has found that the appellant was not in possession of the land and the finding of the Sub-Divisional Officer



in his report dated 31st December, 2012, which was countersigned by the Deputy Collector Land Reforms as well as the Anchaladhikari, the fact narrated in their report, also finds mention in the report of the Divisional Commissioner. Upon going through the report submitted by the Sub-Divisional Officer dated 31st December, 2012, which has been brought on record in the writ proceeding, it is clear that the inspection made by him on 26th December, 2012 was in the presence of the appellant in which he has found that the land was vacant and that it adjoins the N.H.-31 and may be utilized for widening of the road and also that there was an electric sub-grid adjoining the land. He has further found that the appellant has her own residential house and telephone connection and does not belong to the B.P.L. group having 1.89 acres ancestral land and, thus, is neither landless nor homeless. Report of the Divisional Commissioner, Purnea has also disclosed similar facts. It would be pertinent to note here that the finding of facts recorded in the report of the Sub-Divisional Officer and countersigned by the Deputy Collector Land Reforms and the Anchaladhikari, which was based on spot enquiry made in the presence of the appellant, have not been assailed by the appellant in the present proceeding. This being the position, the entitlement of the appellant for settlement of land itself becomes untenable as she could not have been settled any land. The plea of the appellant of there

being violation of natural justice also falls flat for the reason that in her presence the Sub-Divisional Officer had made a spot enquiry in which she has admitted certain facts and the said findings have not been assailed by the appellant either before the authorities or in the present proceeding or in the writ proceeding or even the present appeal.

In view of the discussions made hereinabove, we are in agreement with the findings recorded by the learned single Bench and find no ground for any interference.

Accordingly, the Letters Patent Appeal being devoid of merit stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A