

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.75 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 14546 of 2012**

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Veera Singh, Son of Nathuni Singh, resident of Village- Malway, P.O.- Shivpur,
Police Station- Tarari, District- Bhojpur

.... Appellant/s

Versus

1. The State of Bihar
2. District Magistrate, Bhojpur at Ara
3. Sub Divisional Magistrate Piro, District- Bhojpur
4. Anchal Adhikari, Tarari, District- Bhojpur
5. Ram Vakil Pandey, Son of Late Kapil Pandey, resident of Village- Malway, P.S.-
Tarari, District- Bhojpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoranjan Kumar, Advocate.

Mr. Sanjay Kumar, Advocate.

For the Respondent/s : Mr. Jitendra Prasad Singh, Advocate.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 19-11-2016

Re.:I.A. No. 209 of 2016

The application is for condonation of delay of 7 months in
filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory
Application, we are satisfied that the appellant has shown sufficient
cause to seek condonation of delay of 7 months in filing the present
Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 209 of

2016 is allowed and delay of 7 months in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 75 of 2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 20th of February, 2014 in C.W.J.C. No. 14546 of 2012 whereby, the writ application was disposed of with a direction to the District Magistrate, Bhojpur at Ara to verify the factum of encroachment by the appellant and if encroachment is not removed, to take steps for removal of the encroachment.

2. The writ applicant has invoked the writ jurisdiction of this Court seeking directions for removal of the encroachments by the appellant.

3. The Respondent Nos. 2, 3 and 4 before the writ application filed a counter affidavit, which is to the following effect:-

“8. That despite repeated reminder when the Respondent no. 5 did not remove the encroachment then the circle officer, Tarari ensured removal of encroachment on 03.11.2012 and as such now encroachment has fully been removed from the disputed land in question and consequently the encroachment proceeding has been closed.”

4. The appellant has not filed any counter affidavit before the learned Single Bench.

5. The fact of removal of encroachment, as stated by

Respondent Nos. 2, 3 and 4 was not accepted by the writ-applicant, therefore, a direction was issued to remove the encroachment, if not already removed, as averred by the official respondents.

6. Before this Court also, learned counsel for the appellant argued that encroachment has been removed but he could not satisfy as to then why he has filed the present appeal. Once the stand of the official respondents and that of the appellant is that encroachment stands removed, the leaned District Magistrate, as directed by the learned Single Bench, is to ensure that the land is free from encroachment, as per the stand of the appellant and the official respondents.

7. Thus, there is no illegality in the order passed which is to ensure that the stand of the State and the present appellant is correct as per the ground realities as well. The Letters Patent Appeal is thus stands dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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