

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13081 of 2013

Bhola Ram @ Bhola Prasad S/O Late Naga Ram Resident Of Village- Pirthu Tola, Badhari Bigha, P.O- Pirhu, P.S- Salaiya (Old Madanpur), District- Aurangabad, At Presently Residing At Lahariya Tola More, P.S- Kotwali, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar through its Commissioner, Magadh Division, Gaya.
2. The Land Reforms Deputy Collector, Aurangabad.
3. The Circle Officer, Madanpur, Aurangabad.
4. Deoraj Mistry S/O Late Rameshwar Mistry Resident Of Village- Pirthu Tola, Badhari Bigha, P.O- Pirhu, P.S- Salaiya (Old Madanpur), District- Aurangabad
5. Badshah Mistry S/O Late Kamleshwar Mistry Resident Of Village- Pirthu Tola, Badhari Bigha, P.O- Pirhu, P.S- Salaiya (Old Madanpur), District- Aurangabad
6. Jai Narayan Mistry S/O Late Kamleshwar Mistry Resident Of Village- Pirthu Tola, Badhari Bigha, P.O- Pirhu, P.S- Salaiya (Old Madanpur), District- Aurangabad

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. UDAY KUMAR

For the Respondent/s : Mr. MANOJ KR. AMBASTHA

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 01-04-2016

Heard the counsel for the petitioner and the State.

Challenge in this writ application is to the order dated 24.01.2013 passed by the Commissioner, Magadh Division, Gaya in Land Dispute Settlement Appeal No. 225 of 2012 under section 14 of the Bihar Land Dispute Resolution Act 2009 (for short 'the Act') , whereby the appeal of the petitioner against the order dated 06.07.2012 passed by the DCLR, Aurangabad was rejected as barred by limitation.

Respondent nos. 4 to 6 instituted a proceeding before the respondent DCLR alleging that the subject land was purchased by



them who were in possession thereof and the petitioner was trying to disturb their peaceful possession. An ex-parte order is said to have been passed against the petitioner. Aggrieved thereby, the appeal aforesaid was filed in which an application under section 5 of the Limitation Act, read with section 14 of the Act and Rule 23 of the Rules framed thereunder was filed on 13.09.2012. On hearing the appellant-petitioner, the Divisional Commissioner dismissed the condonation application and thereby the appeal.

The counsel for the petitioner submits that there is ample power conferred under the Act to condone the delay in filing such appeal. He relies in this regard on the proviso to section 14(1) of the Act. For allowing such condonation petition, the respondents cannot be pedantic to call upon the appellant to explain the delay day by day. The purpose of such statutory provision is to do substantial justice between the parties. The law is settled beyond cavil that if the technical justice is pitted against substantial justice, the Court may lean in favour of the latter. Disposal of the case on merit will not prejudice any party. This may satisfy both the parties and may have lasting effect. In the case at hand, the explanation was offered/provided by the petitioner that he was suffering from jaundice from 05.07.2012 to 07.09.2012 whereafter he was advised rest by the doctor for which supporting papers were also furnished.

The counsel for the State, on the other hand, opposed the prayer.

Having regard to what I have observed above, I am of the view that the ends of justice shall be subserved if the order impugned is

quashed and the appeal is restored on the file of the respondent
Divisional Commissioner for consideration and disposal in accordance
with law. I order accordingly.

(Kishore Kumar Mandal, J)

HR/-

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