

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.62 of 2016

In
Civil Writ Jurisdiction Case No. 6455 of 2013

- =====
1. Abdul Mannan son of Khusdil
 2. Manzar Hussain son of Abdul Mannan
 3. Hemar @ Shaipa son of Khusdil
 4. Haroon son of Khusdil
 5. Mohsin son of Khusdil

All resident of Hat Bangrora, P.O. Goal Toli, Police Station- Abadpur,
District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Katihar.
3. The D.C.L.R., Barsoi, Katihar.
4. The Circle Officer, Barsoi, Katihar.
5. Bibi Mahboob Khatoon wife of Tasaduk Hussain
6. Gohar Azam son of Tasaduk Hussain
7. Abdur Rahman son of Maula Bux

Respondent Nos. 5 to 7 are resident of Hat Bangrora, P.O Goal Toli,
Police Station- Abadpur, District- Katihar.

.... Opposite Parties/s

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Appearance :

For the Petitioner/s : Mr. Md. Fahimuddin, Advocate
Mr. Md.Rahmatullah, Advocate

For the Opp.Party Nos. 1 to 4: Mr. Subodh Kr.Mishra, AC to GP 14

For the Opp.Party Nos. 5 to 7: Mr.Md.Qumrul Hoda, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 28-09-2016

Heard the learned counsel appearing on behalf of the petitioners, the learned AC to GP 14, appearing on behalf of the opposite party nos. 1 to 4 as also the learned counsel appearing on behalf of the opposite party nos. 5 to 7.

The present MJC application has been filed for restoration of CWJC No. 6455 of 2013 which stood dismissed for want of prosecution by order dated 04.11.2015, which reads as follows:

“Despite repeated calls, none appears on behalf of the petitioners in support of the present writ petition, though the names of the learned counsel

appearing on behalf of the petitioners are printed in the daily cause list.

Learned GP 7 appearing on behalf of the respondent nos. 1 to 4, on the other hand, submits that against the impugned order dated 02.12.2012 (Annexure-1) passed by the respondent D.C.L.R., Barsoi, the petitioners have an alternative and efficacious remedy before the appellate authority in view of the provisions contained in Section 14 of the Bihar Land Disputes Resolution Act, 2009. According to him, on that ground alone the writ petition is liable to be dismissed.

Be that as it may, since none is appearing on behalf of the petitioners, the writ petition stands dismissed for want of prosecution.”

The learned counsel appearing on behalf of the petitioners submits that the aforesaid writ petition was filed on behalf of the petitioners assailing the validity and correctness of the order dated 21.12.2012 (wrongly typed as 02.12.2012) passed in B.L.D.R. Case No. 149 of 2012-13 by the respondent D.C.L.R., Barsoi, as contained in Annexure-1 to the writ petition, whereby the aforesaid case filed on behalf of the opposite party nos. 5 to 7 herein was allowed. He fairly conceded that against the aforesaid order, an appeal does lie under Section 14 of The Bihar Land Disputes Resolution Act, 2009 (in short “the Act, 2009”) before the prescribed appellate authority.

In above view of the matter, he submits that the petitioner may be granted liberty to assail the validity and correctness of the impugned order passed by the D.C.L.R., Barsoi, Katihar, before the prescribed appellate authority.

The learned counsel appearing on behalf of the opposite parties herein submits that if the petitioners are granted liberty to file an appeal, they may have no objection.

In view of the fair stand taken by the learned counsel

appearing on behalf of the parties, this Court is of the opinion that instead of restoring aforesaid CWJC No. 6455 of 2013 to its original file, the interest of justice shall be subserved if the petitioners are granted liberty to file an appeal under Section 14 of the Act, 2009 before the prescribed appellate authority. It is ordered accordingly.

If an appropriate appeal is filed on behalf of the petitioners within a period of four weeks from today with a certified copy of the present order, then the same shall be considered and decided on its own merits, without being prejudiced/influenced by dismissal of aforesaid CWJC No. 6455 of 2013 by the aforesaid order dated 04.11.2015.

The present MJC application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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