

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1345 of 2015

IN

Civil Writ Jurisdiction Case No. 16664 of 2008

- =====
1. Smt. Aaspati Devi @ Aaspati Kuer W/o Late Ram Narayan Singh
 2. Sudha Devi @ Sudha Singh W/o Om Prakash Singh
 3. Om Prakash Singh S/o Late Ram Surat Singh
 4. Satyendra Singh S/o Late Ram Surat Singh All are resident of village - Nonar, P.S. Ramgarh, District - Kaimur (Bhabua)
 5. Saheb Dulari Devi @ Saheb Dulari W/o Ram Raj Singh, resident of village - Jorar, P.S. Ramgarh, District - Kaimur (Bhabua)

.... Appellants

Versus

1. The State of Bihar
2. The Collector, Kaimur (Bhabua)
3. The Consolidation Officer, Ramgarh, Kaimur
4. Dharmdeo Tiwary S/o Late Sita Ram Tiwari
5. Chakardhar Tripathi
6. Onkarnath Tripathi
7. Subham Tripathi both are minor sons of Chakardhar Tripathi through their mother Indu Devi
8. Indu Devi @ Indu Tripathi W/o Chakardhar Tripathi All are resident of village - Jorar, P.O. Baraura, P.S. Ramgarh, District - Kaimur (Bhabua)
9. Vivek Kumar @ Rohit Kumar S/o Late Anil Kumar
10. Lovely Kumari D/o Late Anil Kumar Singh
11. Neeraj Kumar S/o Late Ram Narayan Singh All are resident of village - Nonar, P.O. Chewari, P.S. Ramgarh, District - Kaimur (Bhabua)
12. Mohan Yadav S/o Late Ram Dawan Yadav resident of village - Jorar, P.S. Ramgarh, P.O. Baraura, District - Kaimur (Bhabua)
13. Lal Bahadur Tiwary S/o Indra Deo Tiwary resident of village - Balpur, P.O. Chhewari, P.S. Ramgarh, District - Kaimur (Bhabua)

.... Respondents

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Appearance :

For the Appellant/s : Mr. Bhanu Pratap Singh, Advocate
For the State : Mr. Ajay Bihari Sinha, G.A.8 with Mr.
Suryakant Kumar, AC to G.A.8

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 23-12-2016

I.A.No.5860 of 2015

The interlocutory application has been filed for
condoning the delay of about one month and 19 days whereas as per



the report of the Stamp Reporter, the delay is of nine days in filing the appeal.

We find that time for obtaining the copy has been excluded by the Stamp Reporter, which is not permissible in the case of an intra-court appeal under the Letters Patent of this Court. Thus the statement made by the writ petitioners is correct and the report of the Stamp Reporter does not appear to be correct.

On a consideration of the facts and circumstances of the case and upon hearing learned counsel for the appellants and learned counsel for the State, the delay in filing the appeal is condoned.

I.A.No.5860 of 2015 is, accordingly, disposed of.

Heard learned counsel for the appellants on the merits of the appeal.

The appeal is directed against the order dated 17.4.2015 passed by a learned Single Judge of this Court in CWJC No.16664 of 2008 by which the writ petition has been dismissed, the learned Judge having found no ground for interference with the impugned order.

The writ application itself has been filed for quashing the order dated 22.9.2008 passed by the Collector, Kaimur (Bhabhua) in Misc.Case No.23 of 2006-07 by which it was held that the sale deed in favour of the petitioners was contrary to the provisions of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as the 'Act') and accordingly directed to impose fine on the vendor.



Learned counsel for the writ petitioners-appellants before the writ court and also before us has sought to rely upon the information given under the Right to Information Act by the Consolidation Officer of the area in which it is stated that during the period from 6.9.2004 to 23.12.2005 if the transfer of land has been made there is no necessity to obtain permission for such transfer in respect of Jorar, Ramgarh Police Station within the District of Kaimur.

In the counter affidavit filed on behalf of the Director, Consolidation a categorical stand was taken that the information dated 4.7.2007 was supplied due to clerical mistake and no such permission was given.

Section 32 of the Act provides as follows :-

“32. Transfer of lands prohibited.- The transfer of any land or fragment contrary to the provisions of this Act shall be void; and the owner of any land, so transferred shall be liable to pay such fine, not exceeding two hundred and fifty rupees, as the Collector of the district may, subject to the general orders of the State Government, direct.”

It is evident from the above that any transfer of land during the pendency of a consolidation proceeding is declared void by operation of the provisions of the aforesaid Section itself and thereafter the owner of the land becomes liable to pay a fine not exceeding Rs.250/- on the direction of the Collector. It is therefore evident that the order impugned in the writ petition was clearly in accord with the provisions of Section 32 of the Act. As a matter of



fact, the sale deed in question did not become void on account of the order of the Collector, which is essentially a declaration of the state of affairs already come into existence by operation of the law and the power of the Collector therein is essentially to impose a fine. The deed itself was void by operation of the provisions of Section 32 of the Act and even if the same had been obtained due to a wrong understanding of the situation it cannot be of any assistance to the appellants nor can it revive the sale deed.

We, thus, see no reason to interfere with the order of learned Single Judge. The appeal is, accordingly, dismissed.

Let a copy of this judgment and order be forwarded to the Registrar General for circulation to the appropriate officials with regard to computation of the period of limitation in a letters patent appeal.

(Ramesh Kumar Datta, J)

(Arun Kumar, J)

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