

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13128 of 2012

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Sheolochan Yadav S/O Late Bulaki Yadav, R/O Vill.-Koraipur, P.S. + P.O.-
Obra, Distt.- Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Magadh Division, Gaya
3. The District Magistrate-cum-Collector, Aurangabad
4. The Land Reforms, Deputy Collector, Daudnagar, Distt.- Aurangabad
5. The Anchal Adhikari, Obra, Distt.- Aurangabad
6. Haricharan Ram S/O Late Dukhi Ram R/O Vill.- Kharanti, P.S.- Obra,
Distt.- Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemendra Pd.Singh, Sr. Advocate
Mr. Gautam Kumar Yadav, Advocate
For the Respondent Nos. 1 to 5: Mr. Satish Kumar Sinha, AC to GP 5
For the Respondent No.6 : Mr. Binod Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 29-08-2016

Heard the parties.

2. The petitioner is aggrieved by the order dated 03.05.2012 passed in Land Dispute Resolution Appeal Case No. 67 of 2012 by the respondent Commissioner, Magadh Division, Gaya, as contained in Annexure-2 to the writ petition, whereby the aforesaid appeal filed on behalf of the petitioner under Section 14 of The Bihar Land Disputes Resolution Act, 2009 (in short, “the Act, 2009”) has been dismissed by a completely non-speaking order on the ground of limitation.

3. The learned senior counsel appearing on behalf of the petitioner submits that Land Dispute Resolution Case No. 11 of 2011-2012 was illegally allowed by the respondent D.C.L.R., Daudnagar by his order dated 19.10.2011, as contained in Anenxure-1 to the writ petition, as the claim raised on behalf of the respondent no.6 with respect to the lands in question was not



within the ambit of Section 4 of the Act, 2009. Therefore, the petitioner, being aggrieved by the aforesaid order, preferred aforesaid Land Dispute Resolution Appeal Case No. 67 of 2012 before the respondent Commissioner Magadh Division, Gaya. It is contended that as there was some delay in filing the aforesaid appeal; therefore, a petition under Section 5 of the Limitation Act was also filed for condonation of delay, but the respondent Commissioner, without considering the cause shown by the petitioner for condoning delay, has dismissed the aforesaid appeal mechanically on the ground of limitation. It is next contended that the order impugned cannot be sustained.

4. The learned State counsel appearing on behalf of the respondent nos. 1 to 5 and the learned counsel appearing on behalf of the respondent no.6 have opposed the prayer, but have not been able to show that the limitation petition filed on behalf of the petitioner for condonation of delay in filing the appeal was considered by the appellate authority after application of his judicial mind.

5. After having heard the parties and taking into consideration the materials available on the record, this Court is of the opinion that the matter requires reconsideration and a fresh decision by the appellate authority on merits. Admittedly, no reason has been recorded by the appellate authority for rejecting the petition filed on behalf of the petitioner for condonation of delay. From the facts available on the record, it is apparent that there was not huge delay in filing the appeal. The delay of few days or even few months could have been condoned by the appellate authority for the ends of justice, but that has not been done in this case.

6. For the reasons recorded above, the impugned order dated 03.05.2012 passed in Land Dispute Resolution Appeal Case No. 67 of 2012 by the respondent Commissioner, Magadh Division, Gaya is hereby set aside and quashed, and the matter is remitted to the respondent Commissioner, Magadh Division, Gaya with a direction to decide the aforesaid appeal afresh on merits. The limitation occurred in filing the aforesaid appeal shall be construed to have been condoned by this Court.

7. The parties shall be at liberty to raise all the issues of facts and law before the appellate authority, which may be available to them with respect to the lands in question.

8. In order to expedite the matter, the petitioner as also the respondent no.6 are hereby directed to appear before the respondent no.2, the Commissioner, Magadh Division, Gaya within a period of two months from today with a certified copy of the present order, whereafter the respondent no.2 shall proceed to decide the aforesaid appeal on merits strictly in accordance with law, but before passing any final order, opportunity of hearing must be given to all concerned including the petitioner and respondent no.6, besides others, if any.

9. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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