

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.424 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 1800 of 2007

Most. Chandri Devi, Wife of Late Bhola Poddar, Resident of Village- Mansahi,
P.O.- Marangi, P.S.- Mansahi, Anchal Mansahi, District- Katihar

.... Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate-Cum-Collector, Katihar.
3. The Circle Officer-Cum-Anchaladshikari, Mansahi, P.S.- Mansahi, Dist- Katihar
4. Smt. Chinta Devi, Wife of Nand Lal Poddar, Resident Of Village- Mansahi,
P.O.- Mansahi, P.S.- Mansahi, District- Katihar

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar Jha, Advocate
Mr. Aditya Abhishek, Advocate

For the State : Mr. Md. Irshad, AC to SC 1

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 30-08-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 28th January, 2014 whereby the writ application filed by the appellant was dismissed. The writ application was directed against an order dated 9th of November, 2006 passed by the *Anchal Adhikari*, Mansahi, District- Katihar by which the application filed by the appellant for issuance of *Basgit Parcha* was rejected.

Initially, *Anchal Adhikari* passed an order on 12th January, 1989 allowing the application of the appellant. An appeal before the Collector filed by respondent no.4 was dismissed as withdrawn on 17th



of October, 1994. Thereafter, the jurisdiction of the Collector was again invoked by respondent no.4. The Collector set aside the order of the *Anchal Adhikari* passed on 12th of January, 1989 in Case No.42/88-89 by order dated 22nd June, 2003. The matter was remanded to the *Anchal Adhikari* to re-examine the matter and pass an order in accordance with law. It is thereafter, the *Anchal Adhikari* passed an order on 9th November, 2006 which order was challenged by the appellant before the learned Single Judge.

The learned Single Bench has dismissed the writ application wherein an argument was raised by the appellant that the Collector could not remit the matter to the *Anchal Adhikari* to re-examine the matter once the earlier revision petition was dismissed. The learned Single Bench found that the earlier revision petition was withdrawn by respondent no.4 and therefore the order passed in the subsequent revision petition cannot be said to be illegal as the first order was not passed on merit.

Learned counsel for the appellant has raised the same argument as was raised before the learned Single Bench that once the revision petition has been withdrawn before the Collector, the Collector could not entertain another revision petition directed against the same order passed by the *Anchal Adhikari*.

We have heard learned counsel for the parties and we do not agree with the argument raised by learned counsel for the appellant. The

withdrawal of revision petition does not lead to merger of the order passed by the Collector as it is the order in appeal which alone leads to the merger of the order passed by the lower authority with that of the superior authority. Revisional jurisdiction is exercised to find out jurisdictional irregularity or illegality and, thus, withdrawal of earlier revision petition may not bar the revisional court to invoke the jurisdiction again.

In view of the said fact, learned counsel for the appellant wishes to withdraw the present appeal with a liberty to challenge the order dated 09.11.2006 passed by the *Anchal Adhikari*, Mansahi, District- Katihar in an appeal in accordance with law.

In view of the said fact, the present Letters Patent Appeal is dismissed as withdrawn with liberty aforesaid. It shall be open to the appellant to seek exclusion of time spent in the present proceedings from the appellate court.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.09.2016
Transmission Date	