

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Review No.474 of 2012
Arising out of
COMPANY APPEAL (DB) No.10 of 2010
Along with
Interlocutory Application No.1378 of 2016**

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1. Rajani Ranjan
 2. Priya Ranjan
 3. Prabhat Ranjan

All sons of Shri Nand Kumar Mishra, presently residing at Saraswati A/41,
Sachiwayala Colony, Kankarbagh, P.S. Patraknagar, District- Patna.

.... Appellants- Petitioner/s

Versus

1. The Official Liquidator Sheo Shakti Builder and Financial Company Limited
(in Liquidation) (in Winding up) through the Official Liquidator, attached to
Patna High Court having its office at Maurya Complex, 4th Floor, 'A' Wing,
P.S. Kotwali, Town and District-Patna.
2. M/s. Daya Builders Properties Private Limited, at present having its Registered
Office at Dobhi Road, Gaya, P.S. Rampur, Town and District Gaya through its
Authorised Director, Sanjay Sahay, son of late Dayanand Sahay, resident of
A.P. Colony, P.S. Rampur, Town and District-Gaya.
3. Sunita Singh, wife of Rabindra Kumar Singh, resident of Village- Hathini, P.S.
Nokha, District-Rohtas.
4. Shashank Shekhar, minor, through his father and natural guardian Rabinder
Kumar Singh, both resident of village Hathini, P.S. Nokha, District-Rohtas.

.... Respondents-Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. U.P. Singh, Senior Advocate Mr. Prakash Kumar, Advocate
For the Respondent No.1	:	Mr. Gautam Kumar Kejriwal, Advocate
For the respondent no.2	:	Mr. R. A. Singh, Advocate Mr. Arun Kumar, Advocate

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

Date: 08-12-2016

Re.: Interlocutory Application No.1378 of 2016

The application is for condonation of delay of 1 year, 7 months and 10 days in filing of the present Civil Review Petition.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Civil Review Petition.

Interlocutory Application stands allowed accordingly.

Re.: Civil Review No.474 of 2012

The petitioners have sought review or recall of the order dated 27th January, 2011 whereby, Company Appeal (DB) No.10 of 2010 was withdrawn as having become infructuous.

The present application for review or recall of the order has been filed after change of counsel. The said fact alone is sufficient not to entertain the present review application. But we have examined the basis of making statement by learned counsel for the appellants before this Court on 27th January, 2011 when he stated that since the petition filed by the second purchaser has been dismissed up to the Supreme Court, the present petitioners being the first purchasers would not have



any case.

To be fair to the learned counsel for the petitioners, we would like to state few facts. The petitioners claim to be the purchasers of land from the Company vide sale deed dated 29th January, 1998. The winding up petition was filed on 15th April, 1998. The petitioners sold the land to M/s. Daya Builders and Properties Pvt. Ltd. In a petition filed by the Official Liquidator, the sale in favour of Petitioners and M/s. Daya Builders and Properties Pvt. Ltd. were set aside by the learned Company Judge on 19th February, 2010, *inter alia*, on the ground that since the sale of land was not one of the objects of company, therefore, sale was not carried out in the ordinary course of the business and that the sale will be hit by the doctrine of *ultra vires*. In view of the said finding, sale deed in favour of the petitioners and three sale deeds in favour of the subsequent purchasers dated 16th September, 2002 were set aside. It is only the Daya Builders and Properties Pvt. Ltd who filed an appeal before the Division Bench, which appeal was dismissed on 21st May, 2010. The Special Leave Petition was also dismissed on 30th August, 2010.

Since the very sale of land was found to be beyond the objects of the company, the petitioners cannot claim any right, title and interest over the property purchased on the ground that they are the bona fide purchasers. The sale of land was not the object of the



company and, thus, was set aside. The petitioners did not challenge the order passed by the learned Company Judge on 19.02.2010 and, thus, the counsel for the petitioners was justified in making a statement that the appeal is rendered infructuous.

We do not find any error either of law or of fact which may entitle the petitioners to seek review or recall of the order. Consequently, the Civil Review Petition is dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Sunil

AFR/NAFR	N.A. F. R.
CAV DATE	N. A.
Uploading Date	13.12.2016
Transmission Date	

