

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.363 of 2015
Arising out of
Miscellaneous Jurisdiction Case No. 3745 of 2011**

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1. The State of Bihar.
 2. Dr. Deepak Prasad, Father's name not known to the petitioner, Secretary, Minor Irrigation Department, Bihar, Patna.
 3. Sri Dina Nath Choudhary, Father's name not known to the petitioner, Chief Engineer, Minor Irrigation Department, Patna.
 4. Sri Jagat Nath Paswan, Father's name not known to the petitioner, Executive Engineer, Minor Irrigation Division, Bhabhua.
 5. Sri Devendra Kumar Sinha, Father's name not known to the petitioner, Executive Engineer, Minor Irrigation Division, Nalanda at Biharsharif.
 6. Sri Shushil Kumar Singh, Father's name not known to the petitioner, Executive Engineer, Minor Irrigation Division, Nawada.

.... Appellants

Versus

1. Birendra Kumar Sinha, s/o Late Bachanlal, Resident of village - Kabar, P.S. - Bhabhua, District - Kaimur.
2. Jai Kumar Singh, s/o Late Jag Narain Singh, resident of village - Mazana, P.S. - Arrah, District - Bhojpur.
3. Om Prakash Tiwari, s/o Sri Rama Shankar Tiwari, resident of village - Jaburani, P.S. - Dungawati, District - Kaimur.
4. Jagdish Singh, s/o Late Ram Nath Singh, resident of village - Batez, P.S. - Mohania, District - Kaimur.
5. Sachida Nand Sharma, s/o Late Nanku Sharma, resident of village - Nawadia, P.S. - Daud Nagar, District - Aurangabad.
6. Lalan Sharma, s/o Late Ram Prasad Sharma, resident of village - Ratanpur, P.S. - Daud Nagar, District - Aurangabad.
7. Upendra Nath Ray, s/o Ram Binod Ray, resident of village - Ramrekha Ghat, P.S. - Buxar, District - Buxar.
8. Parsuram Sharma, s/o Late Ram Janam Sharma, resident of village - Silawja, P.S. - Kurtha, District - Jehanabad.
9. Binay Kumar Choudhary, s/o Sri Durp Narain Choudhary, resident of village - Panchur, P.S. - Laheriasarai, District - Darbhanga.
10. Fatehulla Khan, s/o Md. Abdul Naque, resident of village - Ghosia Kala, P.S. - Bikramganj, District - Rohtas.
11. Amar Nath Prasad, s/o Late Baidhnath Gond, resident of village - Jenora, P.S. - Chainpur, District - Kaimur.
12. Birendra Kumar Singh, s/o Sri Sheo Murat Singh, resident of village - Jaghuthua, P.S. - Chand, District - Kaimur.
13. Rajendra Prasad Singh, s/o Late Dilchand Prasad, resident of village - Raksapat, P.S. - Goriyak, District - Nalanda.
14. Umesh Prasad, s/o Late Guru Sahay Mahto, resident of village - Panchi, P.S. - Sergepur Sarai, District - Sheikhpura.
15. Jai Prakash Narayan Singh, s/o Late Ram Prasad Gorai, resident of village - Kashi Chak, P.S. - Islampur, District - Nalanda.
16. Harihar Ram, s/o Sir Hazari Ram, Resident of village - Rukshu, P.S. - Darigaw, District - Rohtas.

17. Sachida Nand Mishra, s/o Late Srikant Mishra, resident of village - Salarpur, P.S. - Jehanabad, District - Jehanabad.
18. Sri Niwas Singh, son of Sri Inderdeo Singh, resident of village - Darupur, P.S. - Bikramganj, District - Rohtas.
19. Paramhans Singh, s/o Late Janki Singh, resident of village - Pasauri, P.S. - Udwantnagar, District - Bhojpur.
20. Gouri Kant Pathak, s/o Late Seopunaj Pathak, resident of village - Marra, P.S. - Sonhar, District - Kaimur.
21. Banarsi Ram, s/o Late Sugriv Prasad, resident of village - Jamuaa, P.S. - Bhabhua, District - Kaimur.
22. Parsuram Tiwari, s/o Late Kalash Tiwary, resident of village - Pariswan, P.S. Sonpur, District - Bhojpur.

.... Respondents

Appearance :

For the Appellants : Mr. Sunil Kumar Mandal, S.C. 24
Mr. Arjun Prasad, A.C. to S.C. 24

For the Respondents :

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 06-05-2016

Re.: I.A. No. 1730 of 2015

The application is for condonation of delay of 121 days in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellants have shown sufficient cause to seek condonation of delay of 121 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 1730 of 2015 is allowed and delay of 121 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 363 of 2015

Heard learned counsel for the appellants and the respondents.

2. The order dated 24th of July, 2013 passed by the learned Single Bench of this Court in M.J.C. No. 3745 of 2011 is subject matter of challenge in the present Letters Patent Appeal. The learned Single Bench found that the Secretary, Minor Water Resources Department is guilty of contempt and imposed a cost of Rs. 2,000/- per petitioner.

3. Learned counsel for the appellants contends that the order of punishment is untenable for the reason that the order passed by the learned Single Bench was complied with, though after some delay. Since the order was complied with even before the impugned order was passed, the imposition of costs in these circumstances is harsh and untenable.

4. A perusal of the record shows that an order was passed by this Court on 30th of March, 2011 with a direction which was received in the office of the State on 15.04.2011. The Three Men Committee was constituted on 30th of July, 2011 but the action was not taken within three months of the receipt of the copy of the order on 15.04.2011. The order has been passed on 26th of July, 2012 whereby the direction of the learned Single Bench has been complied

with.

5. Keeping in view the fact that before deciding the Contempt Application, the order was already complied with; we find that the order of imposition of cost is not justified. Therefore, the order holding the Secretary, Minor Water Resources Department guilty of contempt is set aside. Consequently, the order of imposition of cost on him is also set aside.

6. The Letters Patent Appeal is, thus, allowed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Anand
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