

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.124 of 2017

In
Civil Writ Jurisdiction Case No.7471 of 2016

-
-
1. The Patna University, Patna through the Vice Chancellor
 2. The Vice Chancellor, Patna University, Patna
 3. The Pro Vice Chancellor, Patna University, Patna
 4. The Registrar, Patna University, Patna
 5. The Engineer, Patna University, Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate, Patna
3. The Sub Divisional Magistrate, Sadar, Patna
4. The Senior Superintendent of Police, Patna.
5. The Officer - in - Charge Pirbahore Police Station, Patna
6. Vijay Kumar Mishra,
7. Uday Kumar Mishra,
8. Jai Kumar Mishra,
9. Ajay Kumar Mishra,
10. Sanjay Kumar Mishra @ Binny Mishra, All S/o Late Nageshwar Mishra, R/o Laxman Das Bhawan, Afzalpur, Thakurbari, Opposite Patna University Main Administrative, Building P.S. Pirbahore, P.O. Patna University, Distt. Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vivekanand Prasad Singh, Advocate
For the State	:	Mr. Suman Kumar Jha, A.C. to AAG-3
For Private Respondent	:	Mr. Praveen Kumar Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-12-2017



Delay of 142 days in filing of this appeal is condoned. I.A. No. 439 of 2017 stands allowed and disposed of.

Seeking exception to an order dated 3rd of August, 2016 passed by the learned Writ Court in C.W.J.C. No. 7471 of 2016 this appeal has been filed by the University in the matter of removal of encroachment from the campus of the University.

The learned Writ Court found that there is a decree of declaration with regard to the property in favour of the petitioners and until and unless the decree is not challenged or interfered with in a proper judicial proceedings by a competent court of law, the University cannot remove the encroachment until and unless the decree is set aside even if it is an ex parte decree.

We see no error in the order passed by the learned Writ Court warranting reconsideration. Act of the University in treating there to be encroachment in the face of the decree passed in favour of the respondent petitioners is incorrect. The University's right will accrue to the University to remove the encroachment only if the decree is set aside in a proper proceedings in accordance with law and if taking note of all these circumstances the Writ Court has dismissed the writ petition, we see no reason to make any indulgence into the



matter.

The Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	12.12.2017
Transmission Date	

