IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1182 of 2016

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Suresh Kumar Singh son of Late Bacha Singh resident of village Vithalpur, P.S. and District Jamui

.... Appellant/s

Versus

1. The State of Bihar through Co-Operative Secretary Bihar Patna
2. The Managing Director, Munger-Jamui Central Co-operative Bank Munger
3. The Branch Manager, Munger - Jamui Central Co-operative Bank Jamui

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Shivendra Kumar Sinha
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-07-2017

<u>Re:-Interlocutory Application No. 4777 of 2016</u>

The interlocutory application has been filed for condonation of delay in filing of the appeal.

On the ground mentioned in the interlocutory application, the delay in filing of the appeal is condoned.

Accordingly, the interlocutory application stands allowed and disposed of.

<u>Re:-Letters Patent Appeal No. 1182 of 2016</u>

The appellant has filed this appeal under Clause-X of the Letter Patent seeking exception to an order dated 17.04.2015 passed by the Writ Court. It is seen that the writ petition was dismissed only because the competent Departmental Authority under whom the appellant was working namely the Assistant Commissioner of Commercial Taxes, Jamui Circle was not impleaded as a party.

The fact of the case goes to show that appellant obtained certain loan from the Jamui Central Co-operative Bank, Munger and due to non-payment of loan, order was passed for recovery from the appellant's salary. It was the case of the appellant that he has not taken loan and, therefore, there was no occasion for directing recovery from his salary. Instead of deciding the inter se dispute between the appellant and bank in the matter, of, as to whether loan was actually taken or not and if taken what action should be taken, the writ petition has been dismissed only because the competent authority of the Commercial Taxes Department was not impleaded as a party.

In our considered view, for deciding the inter se dispute between the appellant and the bank in the matter of recovery of the loan granted, employer was not a necessary party and in dismissing the writ petition only because the employer was not made a party, in our considered view was not proper. It is an improper order which warrants correction.

Accordingly, we allow this appeal, quash the order passed by the learned Writ Court on 17.04.2015 in C.W.J.C. No.

18678 of 2010, restore the writ petition to its file and direct for its placement before the appropriate Bench for deciding the dispute on merit.

With the aforesaid, the appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
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