

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1568 of 2016
IN
Civil Writ Jurisdiction Case No. 9691 of 2011**

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1. Niranjana Kumar Son of Tarani Prasad Singh
 2. Narayan Mahto Son of Jangali Mahto
 3. Mahavir Mahto Son of Hari Mahto
 4. Dharmendra Mahto
 5. Surendra Mahto Both Son of late Kishun Mahto
 6. Subhash Mahto
 7. Kundan Mahto
 8. Jayant Mahto All Sons of Late Phuleshwar Mahto
 9. Sonelal Mahto Son of Tarani Mahto
 10. Bindeshwari Mahto Son of Ram Baran Mahto
 11. Kamleshwari Mahto Son of Bharo Mahto
 12. Jugal Mahto null
 13. Birbal Mahto Both Sons of Late Kailash Mahto.
 14. Anil Kumar son of Surya Narayan Mahto
 15. Ram Chandra Mahto Son of Rupa Mahto
 16. Shivnandan Mahto Son of Chander Mahto
 17. Darogi Mahto Son of Tarani Mahto
 18. Surendra Mahto. Son of Phulchand Mahto All Resident of Village- Bind Toli ,
P.S Gopalpur, District Bhagalpur.

.... Appellant/s

Versus

1. The State of Bihar, through the Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat, Patna.
3. The Commissioner, Bhagalpur Division, Bhagalpur.
4. District Magistrate, Bhagalpur, District- Bhagalpur.
5. The Sub- Divisional Officer, Naugachia, District- Bhagalpur.
6. The Circle Officer, Gopalpur Anchal, District- Bhagalpur.
7. Vivekanand Kuer.
8. Vinodanand Kuer. Both sons of Anandi Kuer, resident of Village- Saidpur, P.S.-



Gopalpur, District- Bhagalpur.
9. Dayanand Kuer son of Binodanand Kuer, resident of village- Saidpur, P.S.-
Gopalpur, District- Bhagalpur.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Rajesh Kumar Pandey
For the Respondent/s : Mr. Prabhat Kumar Verma, AAG3

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 03-11-2017

Seeking exception to an order dated 13.07.2016 passed by
the learned Writ Court in CWJC No. 9691 of 2011 this appeal has
been filed under Clause 10 of the Letters Patent.

It seems that finding statutory alternative remedy
available the learned Writ Court has relegated the parties to take
recourse to the statutory remedy available and in doing so no error has
been committed by the learned Writ Court. Even though by referring
to an interim order passed in the writ petition earlier on 23.06.2011, it
was tried to indicate that after the settlement of the land in favour of
the petitioners and after the petitioners had been in possession for 20
years, the silence of the respondents for 20 years takes away the right
available to them. But we are of the considered view that even the fact
as to whether the silence of the private respondents for a period of 20



years proves to be true or is justifiable, if any, or not is itself a question of fact which is in dispute.

Keeping in view the aforesaid, we are of the considered view that no error has been committed warranting reconsideration in the matter.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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