

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1580 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 2080 of 2015**

=====

M/s Sub Divisional Vishwakarma Technical Institute Society through Manoj Kumar Son of Vishwanath Thakur, Son of Sahbir thakur, Resident of Mohalla Purani Bazar Sitamarhi at present Mohalla - Rajopatti Dumra Road, P.S. - District - Sitamarhi.

.... Appellant

Versus

1. The State of Bihar
2. The District Magistrate cum Collector, Sitamarhi.
3. The Deputy Collector Land Reforms (DCLR) Sitamarhi Sadar, District - Sitamarhi.
4. The Circle Officer, Dumra District Sitamarhi

Respondents-Respondents

5. Vishwakarma Shilp Sansthan Maheshwar Sharma, Son of Baswan Thakur, Resident of Village & P.O. - Rajo Patti Dumra Road, P.S. and District - Sitamarhi for vishwakarma Shilp Sansthan Rajopatti, Sitamarhi.

.... Petitioner-Respondent

=====

Appearance:

For the Appellant/s : Mr. Syed Md. Iqbal Hasan Rahmani, Advocate.

For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7.

Mr. Priya Gupta, AC to GA-7.

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 03-02-2017

Re.: I.A. No.7187 of 2015

This application is for condonation of delay of one day in filing the Letters Patent Appeal.

For the reasons mentioned in the Interlocutory application, we are satisfied that the appellant has shown sufficient cause to seek condonation of delay in filing the present Letters Patent Appeal.



Consequently, Interlocutory Application is allowed and delay in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 1580 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 04.02.2015 wherein, the writ application claiming *Jamabandi* in favour of the present appellant in respect of new survey no.901 remained unsuccessful. However, the writ applicant was given liberty to make appropriate application before the concerned Circle Officer in respect of new survey no. 901 measuring an area of 1.04 acres for which the Circle Officer was directed to take necessary steps.

The writ applicant claims to be the purchaser of the land in question on 24.06.1953. The stand of the appellant is that the said land was assigned new survey nos. 901 and 900 and that new survey no. 901 was entered in the name of the appellant whereas, new survey no. 900 has been entered in the name of the general body. The appellant was thus aggrieved against non-mutation of the land in its favour.

The learned Single Bench found that after the order passed by the Deputy Collector, Land Reforms on 11.10.2011, no order has been passed. The writ applicant can make an appropriate application before the concerned circle officer.

It may be further noticed that in the writ application



filed by Respondent No. 5 herein, the appellant herein was not a party. It is pointed out that Respondent No.5 has no concern with the land in question and through fraudulent act, it has succeeded to get the land mutated in its favour.

Learned counsel for the State submits that against the order passed, the appellant has remedy of appeal.

The entire dispute pertains to sanction of mutation. As per the appellant, Respondent No.5 has no right, title or interest and he has got the land mutated by fraudulent act and impersonation. Such assertions lead to the disputed question of fact. It cannot be decided in the writ jurisdiction of this Court. It would be open to the appellant to invoke alternative remedy as may be available to it in accordance with law before an appropriate forum.

No interference is called for in the order passed by the learned Single Bench. The Letters Patent Appeal, thus, stands dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.02.2017
Transmission Date	

