

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9835 of 2007

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Rampati Mehta, Son of Late Ram Narayan Mehta, Resident of Village-Kothihat Refugee Tola Vistoria, P.S. Raniganj, P.O. Meriganj, District-Araria.

.....Pre-emptor.... Petitioner

Versus

1. The State of Bihar through Secretary, Land Revenue, Government of Bihar at Old Secretariat, P.O.-G.P.O. Patna, District Patna.
2. The Commissioner, Purnia Division at Purnia.
3. The Collector, Araria at Araria.
4. The DCLR, Araria.

.... Respondents 1 Set.

5. Ashok Singh, Son of Bhagwan Das, Resident of Village Gwalpara, P.S. Chhatapur, District Supaul.

..... Purchaser.....Respondent 2nd Set

6. Manoj Kumar, Son of Late Sita Ram Yadav
7. Dilip Yadav, Son of Late Sita Ram Yadav
8. Anil Yadav, Son of Late Sita Ram Yadav
9. Upendra Yadav, Son of Late Subhak Lal Yadav, All resident of Village Bistoria Tola Kothi-Hat, P.S. Raniganj, P.O.- Meriganj, District Araria.

.....Seller.....Respondent 3rd Set.

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Appearance :

For the Petitioner : Dr. Anshuman, Adv.

For the State : A.C. to G.P. 27

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

4 18-01-2017 Heard learned counsel for the petitioner as well as learned A.C. to G.P. 27. No one appears on behalf of private respondents though notices have already been served upon them.

This petition under Section 226 of Constitution of India has been filed for quashing the order dated 21.03.2007 passed by learned Commissioner, Purnia in Ceiling Revision No.



47/2006-07 (Rampati Mehta vs. State of Bihar & Others.) by which and whereunder the aforesaid revision petition was dismissed only on the ground of limitation as the learned Commissioner came to conclusion that the aforesaid revision petition had been filed after 59 days of delay and the petitioner failed to explain the sufficient cause for the aforesaid delay.

The impugned order goes to show that Ceiling Revision No. 47/2006-07 was filed by the petitioner on 07.03.2007 against the order dated 07.11.2006 passed by District Magistrate, Araria. The petitioner pleaded before the learned Commissioner, Purnia that he applied for getting certified copy of order passed in Appeal No. 9/2004-05 on 02.11.2006 but it was informed to him that order in the aforesaid appeal had not been passed. Later on, he fell ill from 05.12.2006 to 11.02.2007 and after regaining his health he went to the concerned court and then on 13.02.2007, he got information that order in Appeal No. 9/2004-05 had already been passed on 07.11.2006 and thereafter he applied for getting the certified copy of aforesaid order which was delivered to him on 19.02.2007. He further pleaded before the learned Commissioner, Purnia that after getting the certified copy of order passed in appeal, he went to Board of Revenue, Bihar, Patna as he was under impression that against the order of District



Magistrate, petition would lie before the Board of Revenue, Patna, Bihar but when he reached to Board of Revenue, Patna, Bihar, it was informed to him that now after amendment, the revision would lie before the Divisional Commissioner against the order passed by District Magistrate and thereafter, he filed revision before the Divisional Commissioner against the order passed in Appeal No. 9/2004-05 but the learned Divisional Commissioner without taking note of the aforesaid fact dismissed the revision petition only on the ground of limitation. It is further submitted that petitioner has a good case on merit but the learned Divisional Commissioner did not take pain to go through the merit of the case. It is further submitted that if the claim of the petitioner is permitted to be rejected only on the ground of limitation, then it will cause heavy loss to the petitioner.

No one appears on behalf of private respondents to controvert the aforesaid submission of learned counsel for the petitioner. Moreover, the impugned order goes to show that it is specific stand of the petitioner that he came to know about the order passed in appeal on 13.02.2007 and admittedly, he filed revision before the Divisional Commissioner on 21.03.2007 i.e. within period of limitation because there is nothing on the record to show that prior to 13.02.2007, the order passed in appeal was



brought to the notice of the petitioner and, therefore, in the aforesaid circumstance, the impugned order dated 21.03.2007 passed by the Commissioner, Purnia is quashed and the learned Commissioner, Purnia is directed to hear the Ceiling Revision No. 47/2006-07 on merit condoning the delay in filing of the aforesaid ceiling revision and pass appropriate order on the aforesaid ceiling revision within four months from the date of receipt/production of copy of this order.

In the aforesaid manner, this petition stands disposed of.

(Hemant Kumar Srivastava, J)

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