

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.416 of 2016
IN
Civil Writ Jurisdiction Case No. 5269 of 2013**

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Sri Swami Jyoti Narayanacharya, Sisy of Srimat Vishwaksenacharya (Tridandi Swamijee Maharaj) Radha Krishna Dham, Zero Mile, Ara, P.S. Udwant Nagar, Distt. - Bhojpur (Ara).

.... Petitioner- Appellant/s

Versus

1. The State of Bihar.
2. The Collector - Cum - District Magistrate, Bhojpur at Ara.
3. Deputy Collector, Land Reforms, Bhojpur, Ara.
4. Circle officer, Udwant Nagar, District - Bhojpur, Ara.
5. Officer - in - Charge, Udwant Nagar Police Station, District Bhojpur, Ara.
6. Meera Devi, Wife of Rajesh Kumar Singh, R/o vill. + P.O. Sahangi, P.S. Garhani, Distt. - Bhojpur, Ara at Present - Mauza Beli, P.S. Udwant Nagar, Distt. - Bhojpur, Ara.

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. T. N. Matin, Senior Advocate
Mr. Gopal Govind Mishra, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19
Mrs. Archana Prasad, AC to SC-19

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-04-2017

Seeking exception to an order passed on 04.11.2015 by the learned Writ Court in Civil Writ Jurisdiction Case No.5269 of 2013 dismissing the writ petition on account of availability of statutory remedy of appeal under Section 14 of the Bihar Land Disputes Resolution Act, 2009, (hereinafter referred to as 'the Act, 2009') this Appeal has been filed under Clause X of the Letters Patent.



Respondent No.6 Smt. Meera Devi initiated a proceeding under Section 4 of the Act, 2009 before the D.C.L.R. Sadar, Ara in Land Dispute Resolution Case No.87 of 2011-12 and on 10.11.2012, an order was passed allowing certain claims and issuing certain directions. Challenging the aforesaid order of the DCLR, the writ petition was filed and the learned Writ Court has dismissed the writ petition by holding that against the order passed by the Statutory authority under Section 4 of the Act, 2009, a remedy of appeal under Section 14 thereof is available and, therefore, the writ petition was not maintainable.

Learned counsel for the appellant invites our attention to the judgment rendered by a Division Bench of this Court in the case of **Maheshwar Mandal & Anr. Vs. The State of Bihar & Ors., 2014 (3) PLJR 281**, to say that when the order passed by the Statutory authority under Section 4 was without jurisdiction, the writ petition was maintainable and relegating the petitioner to take recourse to the statutory remedy of appeal is not proper. It is tried to be indicated that in a proceeding held by the Deputy Collector Land Reforms, the said authority has no jurisdiction to deal with a case pertaining to encroachment as the jurisdiction exercised by the said authority in a matter relating to encroachment, the exercise of power is not proper, the writ Court should have interfered into the matter.



The question as to whether the dispute was a case of settlement of land or a case of encroachment could be decided more appropriately by the appellate authority and if taking note of the aforesaid, the Writ Court has relegated the petitioner to take recourse to the statutory remedy available of filing an appeal, we see no error in the same warranting interference. The Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	N. A. F. R.
CAV DATE	N. A.
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