

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.382 of 2016
IN
Civil Writ Jurisdiction Case No. 18753 of 2008

- =====
1. M/s Chaniya Devi wife of Late Kamal Sah Resident of village & P.S.- Maniyari, District- Muzaffarpur (expunged vide order dated 19.05.2015 and substituted by her following heirs and legal representatives)
 2. Satrugan Sah son of Late Kamal Sah
 3. Satya Narayan Sah son of Late Kamal Sah
 4. Shit Narayan Sah son of Late Kamal Sah All Resident of village- Mahanth Maniyari Tole Kishanpur, P.S.- Maniyari, District- Muzaffarpur

.... Appellant/s

Versus

1. The State of Bihar
2. The Joint Director, Consolidation, District- Muzaffarpur
3. Deputy Director of Consolidation, Muzaffarpur
4. Consolidation Officer, Kurahani Block, District- Muzaffarpur
5. Upendra Sah
6. Kishori Sah
7. Bhikari Sah All are S/o Late Baleshwar Sah
8. Rakhaur Sah
9. Akloo Sah both are sons of Late Parmeshwar Sah @ Rameshwar Sah, Respondent Nos. 5 to 9 is residents of village- Sundarpur, Maniyari, P.S.- Maniyari, District- Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raju Kumar, Advocate
For the Respondent/s : Mr. Gautam Bose, AAG-8

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CORAM: HONOURABLE THE CHIEF JUSTICE5

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 05-05-2017

Seeking exception to an order dated 11.8.2015 in
C.W.J.C. No.18753 of 2008, this appeal has been filed under Clause
10 of the Letters Patent.

Having heard learned counsel for the parties, we find
that, primarily, the writ petition challenging an order passed in



Consolidation Revision No.53 of 1994 has been dismissed because the original appellate order dated 8.6.1984 was not challenged, only the order of revisional authority passed after ten years on condonation of delay, was challenged on the ground of delay in exercising the jurisdiction of revision without challenging the order allowing the application for condonation of delay. That being the position, no error has been committed by the learned Writ Court. However, we also find that the dispute pertains to right, title and possession of the land in question and the petitioners also have a right to initiate proceedings under the common law by filing a civil suit and on that count also the writ petition was not maintainable.

Even now, we see no reason to make any indulgence into the matter. Accordingly, granting liberty to the appellants to take recourse under common law, including remedy of a civil suit, if permissible, under law, dispose of the appeal.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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