

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1114 of 2009

- =====
- 1 Md Mukhtar Alam, son of late Mustaque Alam
 - 2 Md Muzakkir Alam, son of late Md Mustaque Alam
 - 3 Md Quaisar Azam, son of late Kamruddin
 - 4 Md Nasim Akhtar, son of late Kamruddin
 - 5 Md Shamim Akhtar, son of late Kamruddin
 - 6 Mosomat Jahirunissa, wife of late Kamruddin, residents of Village – Singhia, PS – Routa, District - Purnea

.... Petitioner/s

Versus

- 1 The State of Bihar
- 2 Commissioner, Division Purnea
- 3 Additional Collector, Purnea
- 4 The SDM –cum- DCLR, Baisee, Purnea
- 5 Abdul Rahman, son of late Safiruddin, resident of Village – Naya Tola Kathalwari, PS – Amour, District – Purnea
- 6 Abdul Mannan, son of late Safiruddin, resident of Village – Madhapur, PS – Routa, District – Purnea
- 7 Jabadul Haque, son of Saidur Rahman, resident of Village – Harna, PS – Routa, District – Purnea
- 8 Jameeruddin
- 9 Mahmood Alam
- 10 Abdul Razaque
- 11 Ziaur Rahman
- 12 Abdul wadood
- 13 Tehran Nisha, sons and daughter of late Jameela Khatoon and father's name late Kafiluddin, residents of Village – Mangalpur, PS – Routa, District – Purnea
- 14 Mahrnun Nisha, daughter of Jameela Khatoon and father's name late Kafiluddin, resident of Village – Katahalwari, PS – Routa, District – Purnea, heirs of Jameela Khatoon
- 15 Abdul Matib, son of Islamuddin
- 16 Manjoor Alam, son of Islamuddin
- 17 Shamima Khatoon, daughter of Islamuddin
- 18 Safina Khatoon, daughter of Islamuddin
- 19 Islamuddin, husband of late Samsun, heirs of late Samsun
- 20 Md Sairul, son of late Kafiluddin, resident of Village – Singhia, PS – Routa, District - Purnea

.... Respondent/s

WITH

Civil Writ Jurisdiction Case No 18614 of 2008

- =====
- 1 Md Mukhtar Alam, son of late Md Mustaque Alam
 - 2 Md Muzakkir Alam, son of Md Mustaque Alam
 - 3 Md Musfique Alam, son of late Quamruddin
 - 4 Md Quaisar Azam, son of late Quamaruddin
 - 5 Md Nasim Akhtar, son of late Quamruddin
 - 6 Md Shamim Akhtar, son of late Quamruddin
 - 7 Mosomat Jahirun Nisha, wife of late Quamruddin, residents of Village – Singhia, PS – Routa, District - Purnea



.... Petitioner/s

Versus

- 1 The State of Bihar
- 2 Commissioner, Division Purnea
- 3 Additional Collector, Purnea
- 4 The SDM –cum- LRDC, Baisee
- 5 Abdul Rahman, son of late Safiruddin, resident of Naya Tola Katahalbari, PS – Amour, District – Purnea
- 6 Abdul Mannan, son of late Safiruddin, resident of Village – Madhopur, PS – Routa, District – Purnea
- 7 Jabadul Haque, son of Saidur Rahman, resident of Village – Harna, PS – Routa, District – Purnea
- 8 Jameeruddin
- 9 Mahmood Alam
- 10 Abdul Razaque
- 11 Ziaur Rahman
- 12 Abdul Wadood, sons of Jameela Khatoon & late Kafiluddin
- 13 Tehrun Nisha, daughter of Jameela Khatoon and late Kafiluddin, residents of Village – Mangalpur, PS – Routa, District – Purnea
- 14 Mehrun Nisha, daughter of Jameela Khatoon and late Kafiluddin, resident of Village – Katahalbari, Naya Tola, PS – Amour, District – Purnea, heirs of Jameela Khatoon
- 15 Abdul Matlib, son of Islamuddin
- 16 Manjoor Alam, son of Islamuddin
- 17 Shamima Khatoon, daughter of Islamuddin
- 18 Safina Khatoon, daughter of Islamuddin
- 19 Islamuddin, husband of late Shamsun, heirs of late Samsun
- 20 Md Badrul Haque
- 21 Abdul Wadood
- 22 Md Qurban Ali
- 23 Md Hasan, sons of Kafiluddin, resident of Village – Singhia, PS – Routa, District - Purnea

.... Respondent/s

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(In CWJC No. 1114 of 2009)

For the Petitioner/s : Mr. PRAVEEN KR.AGRawal
Mr. Rajesh Kumar

For the Respondent/s : Mr. KUMARI AMRITA (SC(C)1)

(In CWJC No. 18614 of 2008)

For the Petitioner/s : Mr. PRAVEEN KR.AGRawal
Mr. Rajesh Kumar

Mr. Ganesh Kumar

For the Respondent/s : Mr. KUMARI AMRITA(SC(C)1)

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CORAM: HON'BLE MR JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 18-03-2017

Both the petitions are taken up together as a common



question of law is involved in both the writ petitions and, accordingly, the above stated writ petitions are being disposed of by this common order.

Heard learned counsel for the petitioners, learned counsel for the State as well as learned counsel for the private respondents.

The petitioners have challenged the order dated 14.11.2007 by which and where under learned Commissioner, Purnea dismissed the Ceiling Appeal No 24 of 2007-2008 on the ground that the appellants had failed to deposit the cost amount imposed upon them.

Learned counsel appearing for the petitioners submits that no opportunity was given to the appellants to deposit the cost amount and moreover, the Ceiling Appeal No 24 of 2007-2008 has not been disposed of on merit and, therefore, both the matters be remanded back to the Commissioner for deciding the aforesaid appeal afresh on merit.

However, the learned counsel appearing for the private respondents refuted the above said submissions arguing that Ceiling Appeal No 24 of 2007-2008 was not maintainable before the Commissioner, Purnea because the aforesaid appeal was filed against the order of Additional Collector. He further submits that petitioners



ought to have challenged the order of Additional Collector before the Board of Revenue as mentioned in Section 32 of Bihar Land Ceiling Act, 1961 (for brevity, *the Act*). He further submits that when the appeal before the Commissioner, Purnea is itself not maintainable, there is no need to remand the matter back to the Commissioner, Purnea.

Section 32 of the Act says that a revision shall lie to the Board of Revenue from any appellant order passed by a Collector or a Commissioner within 30 days of such order. Section 2 (b) of the Act says that Collector includes an Additional Collector or any other officer not below the rank of Sub-Deputy Collector, appointed by the State Government to discharge all or any of the functions of a Collector under this Act. The aforesaid definition of Collector goes to show that Additional Collector has also been included in the definition of the Collector and, therefore, in my view, learned counsel appearing for private respondents rightly submitted that the petitioners ought to have challenged the order of Additional Collector before Board of Revenue in accordance with Section 32 of the Act.

In view of the aforesaid submissions as well as discussions, both these petitions stand disposed of giving liberty to petitioners to challenge the orders impugned before appropriate forum in accordance with law.



It is made clear that if petitioners challenge the orders impugned before appropriate forum in accordance with law, the concerned forum while, computing the period of limitation, shall exclude the period which was taken by the petitioners in pursuing these writ petitions.

(Hemant Kumar Srivastava, J)

M.E.H./-

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