

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.312 of 2014

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Bibi Jakrun Nesha @ Jakrun Nesha & Anr.

.... Appellant/s

Versus

Lakshmi Singh & Ors.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Amarendra Nath Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

13 12-01-2017 Four Interlocutory Applications i.e. I.A. No. 802 of 2015, I.A. No. 5121 of 2015, I.A. No. 7693 of 2015 and I.A. No. 1065 of 2015 have been filed on behalf of the appellants.

Out of the four Interlocutory Applications, I.A. No. 802 of 2015 relates to the prayer made on behalf of the appellants to grant them permission to pursue this appeal as appellants. The other two Interlocutory Applications i.e. I.A. No. 1065 of 2015 and I.A. No. 7693 of 2015 have been filed praying for condonation of delay in filing this appeal. Lastly I.A. No. 5121 of 2015 has been filed under Order 39 Rule 1 and 2 CPC praying for grant of injunction as mentioned therein.

After considering the submission and perusal of the averments made in I.A. No. 802 of 2015, it transpires that the present appellants have purchased part of the suit property prior to filing of the suit and later on they further purchased another part of the suit property during pendency of the suit. It has been submitted by the learned Counsel for the appellants that the suit was dismissed by the trial court as not maintainable, but in appeal the appellate court



passed an exparte decree against the vendor(s) of the appellants as the service of notice was done bala bala. In that circumstance, the learned Counsel for the appellants has submitted that the present appellants be allowed to file and pursue this appeal as appellants.

It is evident that the decree has been passed exparte against the vendor of the appellants and it has not been disputed that no step was taken by the vendor of the appellant or the appellants in the court below itself for recall of the exparte decree by the appellate court in accordance with law. Moreover, as the appellants are purchasers of the part of the suit property prior to filing of the suit and remaining part during pendency of the suit and it is not their case that their vendor(s) has gone into collusion with the plaintiffs and/or was not diligently pursuing the matter, this Court is not inclined to allow the prayer made on behalf of the appellants. I.A. No. 802 of 2015 is accordingly dismissed.

However, dismissal of the said Interlocutory Application will not stand in the way of the appellants if they chose to take steps for redressal of their grievances in accordance with law.

The other Interlocutory Applications accordingly stand disposed of.

Consequently, the second appeal is also dismissed.

(V. Nath, J.)

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