

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1484 of 2015

IN

Civil Writ Jurisdiction Case No. 776 of 2010

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Mamta Kumari Jaiswal @ Mamta Devi, wife of Sumit Kumar Jaiswal (Daughter - in-Law of Bindeshwari Pd. Jaiswal, son of late Gandhi Sah). Permanent Resident of Village Keshraura Kala, P.S Adhaura, District Kaimur (Bhabua), at present residing at Sabar, P.S. Sabar, District Kaimur (Bhabua)

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar Patna.
2. The Home Commissioner, Bihar Patna.
3. The District Magistrate-cum-Collector, Kaimur at Bhabua.
4. The Superintendent of Police, Kaimur at Bhabua.
5. The Sub Divisional officer, Bhabua, District Kaimur at Bhabua.
6. The Block Development Officer, Adhaura, P.S. Adhaura, District Kaimur (Bhabua)
7. The Circle Officer, Adhaura, District Kaimur at Bhabua.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mohammed Abu Haidar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 11-01-2017

The matter was taken up by the Court and heard both on the limitation petition as well as merit of the case. There has been an extraordinary delay of 857 days. The reason given is that the file was placed in the custody of a Senior Lawyer, who was initially unwell and then subsequently died of which the appellant had no knowledge.

Giving the benefit of doubt the limitation petition is



allowed and the delay is condoned.

I.A. No. 6587 of 2015 is, accordingly, allowed.

The order under challenge in the appeal is dated 25.03.2011, passed by learned Single Judge in C.W.J.C. No. 776 of 2010.

Adhaura P.S. Case No. 35 of 1996 was instituted on 15.12.1996 under Section 396 of the Indian Penal Code. A claim was lodged with the State authorities that Late Gandhi Sah and Jagarnath Sah were killed in the extremist attack and, therefore, in terms of the policy of the State the family members are required to be compensated as well as a Government job is required to be provided. The claim of such kind was rejected on 04.08.2007 by the State on the ground that it was a criminal occurrence simplicitor with no extremist angle.

From the pleadings in the writ application itself statement was made that the family members of the deceased had earlier filed two writ applications seeking similar relief. After certain arguments the two writ applications were permitted to be withdrawn to pursue alternative remedy. The learned Single Judge has observed that the reason for withdrawal was obvious since those petitioners did not have a leeway in the case. The present appellant is the grand daughter-in-law of the two deceased and now she is making a valiant



effort after filing representation after much delay and then on its rejection on 04.08.2007 by moving the High Court by filing a fresh writ application in the year 2010.

The facts being what they are, the learned Single Judge refused to entertain the writ application on the same set of cause which was earlier agitated without success as well as on the ground that these are belated claims which relate to an incidence of December, 1996 and such claim for compensation had already been considered and rejected.

In the opinion of this Court, such repeated litigations by itself did not create ground for reconsideration when such a benefit can only flow from a particular policy of grant of compensation in case of death in an extremist violence and not death caused by any routine kind of criminality of a dacoity and murder during course of dacoity.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Sudha/Rajesh

AFR/NAFR	NAFR
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