

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16349 of 2013

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1(a) Sakhjo Devi, widow of late Nand Lal Ravidas
1 (b) Jagrit Raidas, son of late Nand Lal Ravidas
1(c) Veermani Ravidas son of late Nand Lal Ravidas.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Revenue And Land Reforms Department, Government of Bihar, Patna.
2. The Land Reforms Deputy Collector, Hilsa, District- Nalanda.
3. The Circle Officer, Parwalpur, District- Nalanda.
4. Gariban Ravidas S/O Late Bippat Ravidas Resident Of Village- Mai, Police Station- Parwalpur, District- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lovekush Kumar, Advocate

For the Respondent/s : Mr. Prashant Pratap,

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 03-05-2017

Heard learned counsel for the petitioner and learned AC
to GP 3 for the State.

I.A. No. 7719 of 2015 has been filed for substituting
the legal heirs of the sole petitioner late Nand Lal Ravidas @ Nand
Lal Master, who died on 14.05.2016, leaving behind his widow and
two sons namely, (a) Sakho Devi, widow of late Nand Lal Ravidas
(b) Jagrit Raidas, son of late Nand Lal Ravidas (c) Veermani Ravidas
son of late Nand Lal Ravidas.

A prayer has been made to substitute them as petitioner
nos. 1 (a) (b) and (c). Counsel for the respondents has raised no



objection.

Accordingly, IA. No. 7719 of 2015 is allowed.

Counsel for the petitioner is permitted to expunge the name of sole petitioner and implead Sakho Devi, Jagrit Ravidas and Veermani Ravidas as petitioner nos. 1(a)(b) and(c), respectively.

The present application has been filed for setting aside of the order dated 02.05.2013, passed by the Land Reforms Deputy Collector, Hilsa, in Land Dispute Case No. 109 of 2012-13, directing the petitioner to remove the safety tank from the private land of respondent no. 4, as contained in Annexure 1. The prayer has also been made for quashing the notice dated 02.07.2013, issued under the signature of Circle Officer, directing the respondent no. 3 to comply with the order passed by the Land Reforms Collector, Hilsa, in Case No. 109 of 2012-13, as contained in Annexure 2.

Learned counsel for the petitioner submits that the impugned order is without jurisdiction. Hence, the petitioner has filed the present writ application without availing appellate remedy under Section 14 of the Bihar Land Disputes Resolution Act, 2009 (herein after referred to as the Act.)

In view of this court, it is well settled law that if there is a specific alternative remedy available then in that situation the writ jurisdiction under Article 226 cannot be exercised. A similar



view has been taken by the Apex Court in the case of Manish Goel v/s Rohini Goel, (2010) 4 SCC 393, wherein the Hon'ble Supreme Court held that the constitutional machinery cannot be used to short-circuit the prescribed legal procedure. Para 8 reads as follows :

“This Court generally does not permit a party to by-pass the normal procedure of appeal or reference to the High Court unless a question of principle of great importance arises. It has to be exercised exceptionally and with caution and only in such an extra- ordinary situations. More so, such power is to be exercised taking into consideration the well established principles which govern the exercise of overriding constitutional powers [vide [Dhakeswari Cotton Mills Ltd. v. CIT](#)², [Union of India v. Kishorilal Gupta & Bros.](#)³, [Murtaza & Sons v. Nazir Mohd. Khan](#)⁴ [Sirpur Paper Mills Ltd. v. C WT](#)⁵, [Municipal Corpn, Bhopal v. Misbahul Hasan](#)⁶, [Delhi Judicial Service Assn, v. State of Gujarat](#)⁷, [Tirupati Balaji Developers \(P\) Ltd. v. State of Bihar](#)⁸ and [FGP. Ltd. v. Saleh Hooseini Doctor](#)⁹].”

In the circumstances, the writ application is disposed of with liberty to the petitioner to file an appeal under Section 14 of the Bihar Public Land Dispute Resolution Act, before the Commissioner, within a period of four weeks.

It is expected from the appellate authority to consider the question of condoning the delay in filing appeal in view of the



fact that the writ application was pending before this Court. In the meantime, if the order dated 02.05.2013 passed by learned DCLR in land dispute Case No. 109 of 2012-13 has already not been implemented, then the same shall not be implemented for a further period of six weeks.

(Dinesh Kumar Singh, J)

Prakash/-

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