

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.43 of 2017

In
Civil Writ Jurisdiction Case No. 5190 of 2016

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1. Rajendar Rai @ Rajendar Singh, Son of Late Jurawan Singh, Resident of Village:- Mohalla Khetari, P.S:- Arrah Town, District - Bhojpur.

.... Appellant/s

Versus

1. The State of Bihar Through D.M. Bhojpur.
2. Manoj Kumar Singh, Power of Attorney Holder, S/O Ramjanam Singh, Resident of Mohalla:- Civil Line Pakri, P.S:- Arrah, Nawada, District:- Bhojpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Lallan Singh

For the Respondent/s : Mr. Dr. Anil Kumar Upadhayaya (Sc 2)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

2 02-03-2017 Heard learned counsel for the appellant and perused the record.

The office has reported that this petition is time barred but limitation petition has been filed to condone the delay.

The appellant has challenged the order dated 28-11-2015 passed by learned Additional District Judge-Ist, Ara in Title Appeal No. 88 of 2014 by which and whereunder, the learned Additional District Judge restrained the appellant, who was plaintiff in Title Suit No. 86 of 1991, from making any construction, modification or alteration on the land in question along with the residential house till disposal of the aforesaid title appeal and the impugned order was sent to concerned police



station for needful.

Learned counsel for the appellant points out that prior to filing of this appeal, the appellant challenged the impugned order dated 28-11-2015 by filing CWJC No. 5190 of 2016 but a coordinate bench of this court vide order dated 20-07-2016 dismissed the aforesaid CWJC No. 5190 of 2016 as being not maintainable because the impugned order was appellable order. Moreover, the concerned bench gave liberty to the appellant to challenge the impugned order in appeal and thereafter, the appellant filed this appeal. It is submitted that there is no delay in filing the aforesaid appeal because after passing the order dated 20-07-2016 in CWJC No. 5190 of 2016, immediately the appellant has filed the present appeal.

It would appear that the appellant filed this appeal on 25-01-2017 i.e. after more than three months of passing the order dated 20-07-2016 and, therefore, it cannot be said that just after the order dated 20-07-2016, the appellant filed the present appeal. Moreover, by the impugned order, the appellate court has only directed the appellant not to make any construction, modification or alteration on the land in question along with the residential house. The impugned order does not even reflect that the appellate court gave liberty to the defendant-respondent to get the appellant



evicted from the disputed land, if, he is in possession. Therefore, in my view, this appeal is liable to be dismissed being time barred at the admission stage itself.

Accordingly, the instant appeal stands dismissed being time barred.

However, it is made clear that neither the concerned police officials nor any person shall go beyond the direction/observation made by the appellate court in the impugned order.

(Hemant Kumar Srivastava, J)

A.K.V./-

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