

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.547 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 7146 of 2008**

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1. Dr. Mahrukh Khan, Wife of Late Dr. Najamuddin Haider Khan

2. Dr. Farheen Khan, Wife of Shahnawaj Hussain, Daughter of Late Dr. Najamuddin Haider Khan, Both Resident of Village- Parsauni, P.O. & P.S.- Parsauni, District- Sitamarhi At present residing at Ashiana Nursing Home Pvt. Ltd., Ashiana More, Bailey Road, P.S.- Rajiv Nagar, District- Patna

.... Appellant/s

Versus

1. The State of Bihar, through Chief Secretary, Government of Bihar, Patna

2. The Collector, Sitamarhi

3. The Additional Collector, Sitamarhi

4. The Sub-Divisional Officer, Belsand Sub-Division, District- Sitamarhi

5. The Deputy Collector Land Reforms, Belsand Sub-Division, District- Sitamarhi

6. The Circle Officer, Parsauni Circle, At & P.O. & P.S.- Parsauni, District- Sitamarhi

7. The Circle Officer, Belsand Circle, At & P.O. & P.S.- Belsand, District- Sitamarhi

8. Md. Yunus, Son of Late Abdul Gaffar, Resident of Village- Parsauni Mailwar, P.S.- Parsauni, District- Sitamarhi

9. Md. Maksud, Son of Late Murtuza, Resident of Village- Parsauni Mailwar, P.S.- Parsauni, District- Sitamarhi

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Jha, Advocate

For the Respondent/s :

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT**



(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-05-2017

Delay of 46 days in filing of the appeal is condoned and Interlocutory Application No. 2405 of 2016 stands allowed and disposed of.

2. Seeking exception to an order dated 30th of June, 2015 passed by the learned Writ Court in C.W.J.C. No. 7146 of 2008 this appeal has been filed under Clause 10 of the Letters Patent.

3. Even though learned counsel inviting our attention to Annexure-D to the counter affidavit filed by the State Government tried to indicate that in the backdrop of the admitted position the issue could have been disposed of by the Writ Court on merit as payment of rent for the land covered by the said Basgit Purcha was admitted by the State Government, we are of the considered view that, merely because such statement was made by the State Government or the officer in the counter affidavit that by itself is no reason as to why the learned Writ Court should be directed to exercise its discretion under Article 226 of the Constitution when admittedly the appellant has an Statutory remedy of approaching the Statutory Authority under the Bihar Privileged Persons Homestead Tenancy Act, 1947 and the Writ Court had granted liberty to the appellant to take recourse to the statutory remedy and the entire period consumed in the writ petition has been directed to be excluded for the purpose of counting



limitation.

4. The learned Writ Court having only relegated the appellants to take recourse to the statutory remedy available, we see no reason to make any indulgence into the matter. The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	23.05.2017
Transmission Date	

