

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.886 of 2015

In

Civil Writ Jurisdiction Case No.15970 of 2007

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1. Manju Devi wife of Manoj Kumar Mandal.
 2. Nutan Devi wife of Pradip Kumar Mandal Both residents of village Giddha, P.S. Rupauli, District Purnea.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Additional Collector, Land Ceiling, District Purnea.
4. The Deputy Collector, Land Reforms, Dhamdaha, District Purnea.
5. Ram Mani Devi daughter of late Bikho Bhagat (substituted in place of her father Bikho Bhagat and is wife of Bindeshwari Jayswal, resident of village Giddha, Police Station Rupauli, Post Office Ajokopa, District Purnea). null
6. Arjun Jayaswal.
7. Ram Pratap Jayaswal
8. Manoj Jayaswal
9. Sanjay Kumar Jayaswal. No. 6 to 9 sons of Bikho Bhagat. Resident of village Rampur Parihat Tola, Dumariya, District Purnea.
10. Bindeshwari Sah son of late Bhukhlal Sah, resident of village Giddha, P.S. Rupauli, District Purnea.

... .. Respondent/s

with

Letters Patent Appeal No. 557 of 2015

In

Civil Review No.312 of 2011

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1. Manju Devi wife of Manoj Kumar Mandal
 2. Nutan Devi, wife of Pradip Kumar Mandal, both resident of Village - Giddha, P.S. Rupauli District - Purnea

... .. Appellant/s

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar , Patna
3. The Additional Collect or, Land Ceiling District - Purnea
4. The D.C.L.R., Dhamdaha, District - Purnea
5. Ram Mani Devi daughter of late Bikho Bhagat (Substituted in Place of her father Bikho Bhagat and is wife of Bindeshwari Jayswal , resident of village Giddha , Police Station Rupauli , Post Office Ajokopa, District Pirnea).
6. Arjun Jaiswal
7. Ram Pratap Jaiswal
8. Manoj Jaiswal
9. Sanjay Kumar Jaiswal, all sons of Bhiko Bhagat, respondent nos. 5 to 9 all resident of Village - Rampur Parihat Tola, Dumaria, District - Purnea (Respondent nos. 5 to 9 (Pre - emptors)



10. Bindeshwari Sah S/O Late Bhukhlal Sah, resident of Village - Giddha, P.S.
Rupauli, Distt. Purnea

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 886 of 2015)

For the Appellant/s : Mr. Vidya Sagar

For the Respondent/s : Mrs. Kumari Amrita
GP-3

Mr. Mithilesh Kumar Upadhyay

AC to GP-3

For the Respondent 6-9 : Mr. Sushanta Kumar Das

Advocate

Mr. Dr. Bidhu Ranjan

Advocate

(In Letters Patent Appeal No. 557 of 2015)

For the Appellant/s : Mr. Vidya Sagar

For the Respondent/s : Mrs. Kumari Amrita
GP-3

Mr. Mithilesh Kumar Upadhyay

AC to GP-3

For the Respondent 6-9 : Mr. Sushanta Kumar Das

Advocate

Mr. Dr. Bidhu Ranjan

Advocate

**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and**

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 14-11-2017

Heard learned counsel for the appellants and counsel for the
respondent-State.

The impugned order is dated 06.03.2009, passed in C.W.J.C.
No. 15970 of 2007. The writ application of the present appellants,
who were petitioners, stood dismissed, therefore, the Letters Patent
Appeal.

Submission of the counsel for the appellants is that since
there is no power of condonation of delay vested in the authority,



the finding given by the Learned Single Judge, upholding the decision of the revisional authority, i.e., Additional Member, Board of Review that the delay of two days in depositing of the consideration money with 10 percent extra, ought not to have been accepted and the petition, therefore, for pre-emption, ought to have been rejected at the threshold.

We are not convinced with such line of argument, especially when we take note of the factual position that there was no deliberate delay committed by the pre-emptor in depositing of the money. The Challan was passed by the DCLR on 12.12.2000. Since there was no Government Treasury available at Dhamdha, the place, in question, she was required to visit the District Treasury Office. The very next day in the District Treasury on 13th of December, 2000, there was a strike called. Therefore, the deposit could not be made and on 14th the deposit was made and accepted.

In the above circumstances, preventing a citizen from a rightful exercise of authority or assertion of his right will be doing injustice to the said person and since the process and procedure are required to be interpreted in a manner that substantial justice is done, the Learned Single Judge has rightly taken note of similar provision existing in Statute and the opinion expressed by the



Hon'ble Supreme Court in such situation, where condonation is permissible. This aspect of the submission, therefore, fails.

The other submission on behalf of the appellants is that the purchasers had also become adjoining raiyat by virtue of the execution of four sale-deeds and, therefore, there was no occasion for allowing pre-emption. Accepted fact is that all the four sale-deeds were executed and registered on the same date. If that be so, then naturally till the process is completed transfer is not complete. Since it is not a case that these purchases were made on different dates and, therefore, the right, title and interest had continued to accrue with the next plot of land bought and the next and the next. Since all the transactions are in one go, therefore, the Court has difficulty in accepting such a submission that the appellants had become an adjoining raiyat by such sale and purchase in their favour on the same date.

We also take note of the fact that such submission was not made before the Learned Single Judge and the Learned Single Judge in its order has recorded that no other contention has been raised by the learned counsel for the petitioner. However, the said fact is being disputed now. But irrespective of the said, we have gone through the position and we do not feel that the Learned Single Judge's order, dated 06.03.2009 requires any interference,



as he has not committed any serious error, which requires rectification in appeal.

Both the appeals stand dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	16.11.2017
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