

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.718 of 2017

IN

Civil Misc. No. 54 of 2017

=====

Biphan Gareri (Bhagat), Son of Late Laxmi Gareri, resident of village -
Barkachanda, Post - Katkaira, Police Station Koelwar, District - Bhojpur

.... Appellant/s

Versus

1. Suresh Ahir, Son of Manhak Ahir, resident of village - Haripur, Police Station -
Koelwar, District - Bhojpur
2. Anil Kumar Sinha,
3. Prabhu Sinha, Sl. No. 2 and 3 are Sons of Mahesh Chandra Sinha @ Munan Lal,
4. Sunita Sinha,
5. Geeta Sinha, Sl. No. 4 and 5 are daughters of Mahesh Chandra Sinha @ Munan
Lal,
6. Ramawati Devi, Wife of Mahesh Chandra Sinha @ Munan Lal, Sl. No. 2 to 6 are
residents of Mohalla - Bandhan Tola, Police Station Ara Nawada, District - Bhojpur
.....Respondents/Defendants/Respondents 1st set
7. The State of Bihar through Collector, Bhojpur, Ara
....Respondent/Defendant/Respondent -2nd set
8. Sheo Gopal Gareri,
9. Sheo Dayal Gareri,
10. Ram Dayal Gareri, Sl. No. 8 to 10 are Sons of Late Laxmi Gareri,
11. Mahendra Gareri, Son of Late Hari Giran Gareri,
12. Most. Suga Kuar, Wife of Late Parikhan Gareri,
13. Bhagwan Bhagat,
14. Umesh Bhagat, Sl. No. 13 to 14 are Sons of Late Parikhan Bhagat and Sl. No. 8
to 14 are residents of village - Barkachanda, Post Katkaira, Police Station Koelwar,
District - Bhojpur Performa Respondents/Respondents -3rd set
15. Minni Kumari, Daughter of Late Mahesh Chandra Sinha, resident of Mohalla -
Bandhan Tola, Police Station - Ara Nawada, District - Bhojpur
Intervener/Defendant/Respondent
16. Shree Niwas Bhagat, Son of Late Parikhan Bhagat,
17. Jairam Sao, Son of Paran Chand Sao, resident of village - Barkachanda, Post -
Katkaira, Police Station Koelwar, District – Bhojpur... Respondents/Respondents



4th set

=====

Appearance :

For the Appellant/s : Mr. Rajendra Nath Sinha

For the Respondent/s : Mr. Md. Khurshid Alam, AAG12

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-03-2018

There is a delay of 42 days in filing this Letters Patent Appeal and I.A. No. 3047 of 2017 has been filed for condoning the delay. For the reasons mentioned therein the delay in filing the appeal is condoned. IA No. 3047 of 2017 stands allowed.

Seeking exception to an order dated 07.02.2017 passed by the learned Writ Court in Civil Misc. No. 54 of 2017 this appeal has been filed under Clause 10 of the Letters Patent. Before the learned Writ Court an interim order passed on 01.10.2016 by the 6th Additional District Judge, Ara in Title Appeal No. 138 of 2013 was challenged, wherein an application under Order 26 Rule 9 of the Code of Civil Procedure praying for appointment of a Pleader Commissioner was rejected.

Against the order passed by the learned Writ Court under Article 227 of the Constitution impugning interlocutory proceedings in civil suit or civil appeal, Letters Patent Appeal under Clause 10 is not maintainable and in that view of the above, we have no hesitation



in upholding the objection raised by the office and dismissing the appeal as the same is not maintainable.

The appeal is accordingly dismissed.

(Rajendra Menon, CJ)

mr.l./-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.03.2018
Transmission Date	

