IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7661 of 1993

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1. Krishna Mohan Singh
2. Indra Mohan Singh both sons of Late Arjun Singh
3. Uma Devi
4. Rama Devi both daughters of Late Arjun Singh All are resident of village- Bara Telpa Naya Basti, Police Station- Chapra Mofassil, District- Saran

.... Petitioners

Versus

1. The Additional Member, Board of Revenue, Bihar, Patna
2. The Additional Collector, Saran at Chapra
3. The Deputy Collector Incharge Land Reforms, Chapra
4. Smt. Mahajani Devi wife of late Suraj Roy
5. Jagdish Roy
6. Sukhen Roy
7. Rampravesh Roy
8. Jitendra Roy Sons of late Suraj Roy
9. Most. Gyatri Devi widow of late Bhagwan Roy
10. Chanda Devi wife of Ashok Kumar
11. Deopati Devi wife of Ram Sakal Singh
12. Lali Devi wife of Mahendra Prasad Roy (Sl. No. 9 to 12 daughters of Suraj Roy) All resident of Village- Shivnagari, Tole Kanchan Roy, P.O.- Mehian Gurukul, P.S.- Chapra Mofassil, District- Saran
13. Most. Raja Kuer wife of Kaushal Singh, daughter of late Lalji Singh, resident of village- Shivpur, P.S.- Chapra Mofassil, District- Saran

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Dwivedi, Sr. Adv.
Mr. Parth Gaurav, Adv.

For the Respondent/s : Mr. Manojeshwar Pd. Sinha
Mr. Ratan Kr. Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-10-2018

Heard Mr. Shashi Shekhar Dwivedi, learned Senior Counsel appearing for the petitioners along with Mr. Ranjan Kumar Dubey, Advocate on record, Mr. Ajay Kumar, learned GP 4 for the State and Mr. Manojeswar Prasad Sinha, learned Counsel appearing for the private respondents.

The petitioners are aggrieved by the order dated 21.5.1993 of the Additional Member, Board of Revenue, whereby the revision of the private respondent has been allowed.

This writ petition was admitted for hearing by order dated 01.12.1995 and was taken up for hearing on 28.09.2018 when this Court has taken note of the issues raised by the petitioners to question the order passed by the Member, Board of Revenue dated 21.05.1993 in Board Case No. 275 of 1991 impugned at Annexure-3 to the writ petition, whereby the revision of the private respondents has been allowed.

Amongst the issues that is raised by Mr. Dwivedi to question the order impugned passed by the Board of Revenue, one of the issues raised is that despite the revision application of the private respondents being barred by limitation having been filed beyond the statutory period of 30 days, neither an application for condonation of delay was filed by the private respondents as revision petitioner nor any order has been passed by the Board of Revenue to condone the delay.

According to Mr. Dwivedi, the appellate order was passed on 27.05.1991 and was questioned before the Board of Revenue through the revision in question on 13.08.1991 much beyond the period of 30 days stipulated under Section 32 of 'the Act'. He thus submits that a revision application which was barred by limitation has been heard and allowed. In short, the argument of Mr. Dwivedi is that an incompetent revision has been allowed. It is taking note of this issue which rendered the order impugned void that the matter was adjourned enabling Mr. Sinha appearing for the private respondents to contest the issue but he has not been able to satisfy this Court that any order was passed by the Board of Revenue for condoning the delay. Although Mr. Sinha, learned Counsel appearing for the revision petitioners who is the private respondent herein has tried to persuade that the revision was filed within 30 days of information of the appellate order because the private respondents were never noticed and thus had no knowledge about the appellate order and no sooner did they gather knowledge that the revision application was filed accompanied with a limitation petition but in my opinion this oral submission would not suffice because there is no limitation petition on record.

Once the legislature has prescribed a limitation period for filing a revision application of 30 days, any revision filed beyond the stipulated period needs to be supported by a petition for condonation of delay. Learned Counsel for the respondents who were revision petitioners before the Board of Revenue have submitted that an application for condonation of delay was filed alongwith the revision application with a prayer to condone the delay but as noted above, no copy of the same is filed in this proceeding.

The law is well settled for any reference to judicial pronouncement that an incompetent appeal cannot be adjudicated on merits until the adjudicating authority condones the delay. There may be explanation for the delay but then it needs to be properly addressed before the revisional authority and accepted and who is obliged to pass order thereon, which relevant discharge is missing in the order impugned.

For the reasons so discussed, the order dated 21.05.1993 passed by the Member, Board of Revenue in Board Case No. 275 of 1991, impugned at Annexure-3 cannot be upheld and is accordingly set aside.

In the nature of the order so passed, I deem it proper to remit the matter to the Board of Revenue for consideration of the revision application afresh and while doing so, I would grant liberty to the private respondent to file an appropriate application in support of their prayer for condonation of delay, if not already filed.

It goes without saying that the Board of Revenue would consider the matter afresh after disposal of the application so filed by the private respondents for condonation of delay in accordance with law.

The parties have appeared before this Court and would register their appearance before the Board of Revenue on 19.11.2018 when the Board of Revenue would proceed to fix up a date for disposal of the matter.

The writ petition is allowed with the aforementioned directions.

(Jyoti Saran, J)

Archana/Surendra

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	11.10.2018
Transmission Date	NA