

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2012 of 2014

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1. Rajendra Ravidas Son Of Late Doman Mochi @ Doman Chamar Resident Of Village - New Tardih Bhagalpur, P.O. & P.S. Bodh Gaya, District - Gaya
 2. Birendra Ravidas Son Of Late Doman Mochi @ Doman Chamar Resident Of Village - New Tardih Bhagalpur, P.O. & P.S. Bodh Gaya, District - Gaya
 3. Ajay Ravidas Son Of Late Doman Mochi @ Doman Chamar Resident Of Village - New Tardih Bhagalpur, P.O. & P.S. Bodh Gaya, District - Gaya
- Petitioners

Versus

1. State Of Bihar Through Its Principal Secretary, Revenue And Land Reforms Department, Government Of Bihar, Patna
 2. Commissioner, Magadh Division, Gaya
 3. District Magistrate, Gaya
 4. Deputy Collector Land Reforms, Sadar, District Gaya
 5. Pyari Devi W/O Late Manki Mochi Resident Of Village - New Tardih Bhagalpur, P.O. & P.S. Bodh Gaya, District - Gaya
 6. Dilip Das Son Of Late Manki Mochi Resident Of Village - New Tardih Bhagalpur, P.O. & P.S. Bodh Gaya, District - Gaya
 7. Pradip Kumar Son Of Late Manki Mochi Resident Of Village - New Tardih Bhagalpur, P.O. & P.S. Bodh Gaya, District - Gaya
 8. Rajesh Das Son Of Late Manki Mochi Resident Of Village - New Tardih Bhagalpur, P.O. & P.S. Bodh Gaya, District - Gaya
- Respondents

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Appearance :

For the Petitioner/s : Mr. SIDDHARTHA PRASAD
For the Respondent/s : Mr. SC-12 P.K.SINGH

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date: 27-03-2018

Heard learned counsel for the petitioner.

Nobody appears on behalf of respondent nos. 5 to 8, in spite of notice.

The petitioners have filed this writ petition to quash the order dated 10.10.2013 passed by the Commissioner, Magadh Division, Gaya in Land Dispute Redressal Appeal No.208 of 2013 by which the Commissioner dismissed the appeal of the petitioners on the ground of limitation.



Learned counsel for the petitioners submits that the D.C.L.R., Sadar, Gaya passed the order for making correction of the entry in the record of rights on 20.05.2013 but the order was anti dated. The petitioners were not informed about the date of the order. It is further submitted that on 03.05.2013 both sides were heard by the D.C.L.R. and the order was kept reserved but the date of order was not fixed. Without giving any notice, the order was passed on 20.05.2013, therefore, the petitioners did not know about the date of order and accordingly, when the petitioners knew about the order passed in the case, they filed application for certified copy of the order and thereafter filed appeal before the Commissioner along with the petition under Section 5 of the Limitation Act. The petitioners have stated the entire facts for causing delay in filing appeal but the Commissioner, without looking into the facts and circumstances, dismissed the appeal on the ground of limitation.

I find substance in the submission of the learned counsel for the petitioners. From perusal of the order dated 03.05.2013, it appears that the D.C.L.R. heard both sides and the case was reserved for order but the D.C.L.R. did not fix any date for delivery of order/judgment. No notice was given to either party about the date of order/judgment.

In this view of the fact, I find that the Commissioner has committed illegality in dismissing the appeal of the petitioners on the



ground of limitation.

Accordingly, the order dated 10.10.2013 passed by the Commissioner, Magadh Division, Gaya is set aside and the matter is remitted to the Commissioner to hear the appeal of the petitioners on merit and after hearing both sides, dispose of the appeal in accordance with law.

This writ petition is accordingly allowed.

(Prabhat Kumar Jha, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.03.2018
Transmission Date	NA

