

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1272 of 2017

In

Civil Writ Jurisdiction Case No. 2861 of 2014

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1. Ram Chandra Sharma.
2. Lakhan Sharma, Both S/O Late Lakhan Lal Sharma,
3. Kapildeo Sharma, S/O Ayodhi Sharma, All R/O Vill. Manoharpur P.S.
Bhawanipur Bihpur District Bhagalpur.

.... Appellants

Versus

1. The State of Bihar.
2. The District Magistrate Bhagalpur
3. The Sub Divisional Magistrate Naugachia.
4. The Land Reforms Deputy Collector Naugachia.
5. Circle Officer Narayanpur, Naugachia.
6. Sudhir Sharma, S/O Basant Sharma, R/O Vill. Manoharpur P.S.
Bhawanipur (Bihpur), District Bhagalpur.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar, Adv.
Mr. Brajesh Kumar Singh, Adv.
For the Respondent/s : Mr. Rakesh Ranjan, AC to AAG-12
For the private respondent: Mr. Avinash, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

8 27-08-2018

I.A.No. 9368/2017

This interlocutory application has been filed for
condonation of delay of 434 days in filing the appeal.

Having heard learned counsel for the parties and having
perused the explanation given for the delay, we are satisfied by the
reasons assigned for the delay, which is accordingly condoned.

I.A.No. 9368/2017 is allowed.



L.P.A.No. 1272/2017

Heard Mr. Dhananjay Kumar, learned counsel for the appellants- writ petitioners, Mr. Rakesh Ranjan, learned AC to AAG-12, for the State and Mr. Avinash, learned counsel for the private respondent.

This intra-Court appeal arises from the judgment and order dated 18.5.2016 of a learned Single Judge passed in C.W.J.C.No. 2861/2014, whereby the writ petition has been dismissed.

We have heard learned counsel for the parties and have perused the records. The only issue that is raised by Mr. Dhananjay Kumar, learned counsel for the appellants, to question the proceedings as well as dismissal of the writ petition is, that the petitioners were never put on notice before the settlement was made in favour of the private respondent.

Perusal of the records of the writ proceeding would demonstrate that the dispute relates to settlement of plot no. 2306 together with plot no. 2294 of Khata No. 1081, to the extent of 0.21 decimals, in favour of the private respondent. The writ petitioners have enclosed a report of the Amin at Annexure 4 and it is placing reliance thereon that it was canvassed by Mr. Dhananjay Kumar that while the descendents of Lakhan Lal



Sharma, who have been substituted in this appeal, are in possession over 16 decimals in plot no. 2306, the appellant-petitioner Kapildeo Sharma is in possession of 8 decimals of land from the same plot. According to Mr. Dhananjay Kumar, learned counsel for the appellants, the said plot ad-measures 37 decimals. The report at Annexure 4 of the writ petition would confirm that the appellant- petitioners are in possession of about 24 decimals of land in plot no. 2306, leaving out 13 decimals. The report also demonstrates that plot no. 2294 held by the private respondent ad-measures 11 decimals. The impugned order at Annexure 3 of the writ petition confirms that a total of 21 decimals has been settled in favour of the private respondent which is inclusive of the land coming under plot nos. 2294 and 2306. This would mean that about 10 decimals of land from plot no. 2306 together with 11 decimals of land from plot no. 2294 in total 21 decimals, has been settled in favour of the private respondent. Thus, as per own submission of the appellants- writ petitioners while they are in possession over 24 decimals of land in plot no. 2306, 13 decimals was yet available of which, 10 decimals have been settled in favour of the private respondent, as it transpires from the order of settlement impugned at Annexure 3 to the writ petition when read alongside the report of the Amin at Annexure 4.



In the aforesaid view of the matter, neither the appellants were required to be put on notice nor in the circumstances existing they can raise any grievance on the settlement made in favour of the private respondent.

The appeal is dismissed.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

Surendra/-

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