

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.109 of 2017

In
Civil Writ Jurisdiction Case No.15086 of 2006

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Urvashi Devi @ Urbasi Kumari wife of Sri Krishna Kumar resident of village
Gopalpur, P.S. Rajaun, District Banka.

... .. Appellant

Versus

1. The State of Bihar.
2. The Director, Department of Welfare, Government of Bihar, Patna.
3. The District Magistrate, Banka.
4. The Deputy Development Commissioner, Banka.
5. The District Welfare Officer, Banka.
6. The Child Development Project Officer, Rajaun, Banka.
7. Kalpana Kumari wife of Shahi Bhushan Sharangi resident of village
Gopalpur, P.O. Gopalpur, P.S. Rajaun, District Banka.

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Rajendra Narain, Senior Advocate Mr. Rajiv Kumar Singh, Advocate
For the Respondent State:		Mr. Manish Kumar, AC to AAG6
For the Respondent No.6:		Mr. Rajendra Prasad, Senior Advocate Mr. Vinod Shankar Modi, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

12 14-05-2018 Heard counsel for the parties. We have perused the

order dated 05.12.2016 passed by the learned single Judge in

C.W.J.C. No. 15086 of 2006.

We do not want to interfere with the said order for the

reasons which has been indicated by the learned single Judge in

following words:

**“The matter is even worse out here. Despite the
rejection of the claim of the private respondent by the
District Magistrate on 26.12.1998 having not been interfered
with by the writ Court on the writ petition preferred by the**



private respondent which was dismissed and which order of dismissal was affirmed by the Division Bench in the appeal preferred by the private respondent, yet the District Magistrate, Bank exercising powers of review has reversed the position. In other words the District Magistrate, Banka by the order impugned at Annexure-14 has acted as an appellate authority to the opinion of the writ Court as well as the Division Bench while acting purportedly in the light of the directions contained in the order passed by the Division Bench in LPA No. 46 of 2004. Clearly the District Magistrate has exceeded his jurisdiction to re-examine the matter for the moment he has recorded that no representation of the petitioner was pending for adjudication and that the representation of the petitioner was disposed of on 26.12.1998 which was the subject matter of the writ petition filed by the private respondent in CWJC No. 795 of 1999 then he should not have proceeded any further to re-examine the rival claims. The order impugned passed by the District Magistrate at Annexure-14 is an exercise without jurisdiction and cannot be upheld and is accordingly quashed and set aside.”

There are adequate reason, therefore, for him to set aside the order of the District Magistrate and allow the writ application.

No interference is warranted. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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