

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.365 of 2018

In
Civil Writ Jurisdiction Case No.13029 of 2014

-
1. Md. Aqueel,
 2. Md. Shakil Both Sons of Waizul Haque,
 3. Murtuza son of Late Md. Manir
 4. Md. Ashfaq,
 5. Aftab Alam, Both sons of Md. Waliullah,
 6. Mustafa Son of Late Md. Manir.
 7. Khushtari Khatoon, Wife of Md. Khursheed
 8. Saleha Khatoon @ Sahela Khatoon, D/o Late Md. Kifayat.
 9. Mahera Khatoon @ Lalbib, Wife of Late Md. Bashir.
 10. Md. Alam, Son of Shaikh Abdus Shakoor.
 11. Shaikh Shoaib, Son of Late Shaikh Sujayat.
 12. Chhitru Ram, Son of Late Fudeni Ram,
 13. Md. Junaid Ahmad, Son of Late Shaikh Walayat.
 14. Abdul Majeed, Son of Late Hadees.
 15. Sarjun Nisa, Wife of Hameed Hasan.
 16. Md. Khalid Son of Late Hadees.
 17. Tula, Son of Late Sher Mohammad.
 18. Sainul @ Md. Sanaullah, Son of Late Junair.
 19. Nasir @ Md. Nasir, Son of Late Hifazat.
 20. Mahindra Thakur, Son of Late Rajal Thakur.
 21. Prem Sah, Son of Jaleshwar Sah.
 22. Shahnaz Begum, D/o Late Md. Zuhair
 23. Kulsum Khatoon, Wife of Ejazur Rahman.
 24. Shabnam Begum, Wife of Eamul Haque.
 25. Bibi Saida, Wife of Saifuddin.
 26. Azmat Khatoon, Wife of Late Shaikh Ebadat.
 27. Jagdeo Ram, Son of Late Nemichandra Sah.
 28. Sadrun Nisa, Wife of Late Zahoor Alam,
 29. Sheo Shankar Sah @ Bhantu Sah, Son of Panchu Sah.
 30. Md. Serajul Haque, Son of Late Farmood.
 31. Ishtehar Son of Md. Shamim.
 32. Roomana Khatoon, wife of Zabi Haider.
 33. Ileyas, Son of Late Shafi Mohammd.
 34. Feku Das, son of Late Ram Prasad Sah.
 35. Sharifur Rahman, Son of Late Shaikh Manzar.

All resident of Village- Mesaudha, Piprahi, District- Sheohar.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate-cum-Collector, Sheohar.
3. The Anchal Adhikari, Piprahi Anchal, District- Sheohar.
- Respondents-Respondents.
4. Raj Deo Raut, Son of Ram Shresth Raut, Resident of Village- Mesaudha, P.S.- Piprahi, District- Sheohar.

... .. Respondents-Respondent/s



Appearance :

For the Appellant/s : Mr. Md. Anisur Rahman, Advocate
For the Respondent/s : Mr. Arun Kumar Bhagat, AC to AAG-12

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER**

(Per: HONOURABLE THE CHIEF JUSTICE)

3 11-12-2018 Heard learned counsel for the appellants Shri Md. Anisur Rahman and Shri Arun Kumar Bhagat, learned counsel for the State.

There are certain defects pointed out. We ignore the same and grant leave to the appellants to pursue this appeal as they claim themselves to be affected by the impugned judgment in a writ petition where they were not made parties.

In the averments contained in the appeal it has been asserted that the appellants were unaware of the filing of the writ petition in which even they were not impleaded as parties, therefore, they have arrived before this Court seeking leaving to appeal. Accordingly, we find sufficient cause to entertain the appeal even beyond the period of limitation prescribed and condone the same.

From the impugned judgment it appears that the petitioner of the writ petition prayed for a direction for removal of encroachments from public land alleging that the land over which encroachment was being alleged was in the shape of a



pond.

The appellants contend that they are in occupation of the land since the time of their ancestors and, therefore, the order which has been passed without impleading the appellants adversely affects them and consequently the impugned judgment deserves to be set aside.

We have considered the submissions raised and what we find is that the direction is to put all such persons to notice who may have a claim over the land and then to proceed with the matter in terms of the Bihar Public Land Encroachment Act.

In our considered opinion, the rights of the appellants are well protected under the impugned judgment as they have every opportunity to contest if they are put to notice and set up their claim in whatever manner they find it necessary to sustain their claim.

Consequently, the impugned judgement does not, at this stage, prejudice the appellants and the appeal, therefore, stands disposed of with liberty to the appellants to register their objections before the competent authority in the event any such proceedings are initiated and it shall be the obligation of the authority to dispose of such objection before passing any order. The appellants would also be at liberty to avail of any other



remedy under the law for the time being in force for the protection of their rights.

Disposed of.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

U			
---	--	--	--

