

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.171 of 2018

In
Civil Writ Jurisdiction Case No.19690 of 2014

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Pushp Bharti through its Secretary Rabindra Singh, S/o Shri Vishwanath Singh, resident of village - Khairimal, P.S. Pipra, District - East Champaran.

... .. Petitioner- Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Nagar Vikas Department, Bihar, Patna.
2. The Principal Secretary, Nagar Vikas Department, Bihar, Patna.
3. The District Magistrate, Sasaram, District - Rohtas.
4. The Nagar Parishad, Sasaram through its Executive Officer, Sasaram District - Rohtas.
5. The Nagar Executive Officer, Nagar Parishad, Sasaram, District - Rohtas.
6. The Chairman of Nagar Parishad, Sasaram, District - Rohtas.

... .. Respondents- Respondent/s

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Appearance :

For the Appellant/s	:	Mr. K. K. Shrivastava, Advocate
		Mr. A. K. Shrivastawa, Advocate
For the State	:	Mr. Yogendra Prasad Sinha, AAG 7
For the Nagar Parishad, Sasaram :		Mr. Vijay Shankar Upadhyay, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-12-2018

Re.: Interlocutory Application No.2388 of 2018

Heard Shri K. K. Shrivastava, learned counsel for the appellant.

This delay condonation application has been filed even though not with a very satisfactory explanation but sufficient cause can be presumed by us. Consequently, the delay condonation application is allowed and the appeal shall be



treated to be within time.

Re.: Letters Patent Appeal No. 171 of 2018

The appeal questions the refusal of discretion by the learned Single Judge on the ground that the dismissal of the earlier writ petition would neither be a bar nor it would be a public policy to entertain the writ petition that has given rise to the present appeal. Learned counsel submits that the cause of action was a continuing cause of action and which can be treated to be a fresh cause of action and consequently, the second writ petition was maintainable.

We have considered the submissions raised. The learned Single Judge has quoted the exact relief and has also indicated that the same and identical relief had been prayed for in earlier writ petition being CWJC No.6788 of 2014. In the circumstances, what we find is that there was no fresh cause of action as the liberty that was given on the withdrawal of the earlier writ petition was to move before the Court if there was a fresh cause of action. The same cause of action which continued therefore, cannot be described as a fresh cause of action and as such the learned Single Judge did not fall in error in dismissing the writ petition.

We, therefore, find no merit in this appeal and the



same is, accordingly, dismissed.

The dismissal of the claim of the appellant would not preclude him to seek any other remedy which might be available or possible in law.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	
CAV DATE	NA
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