

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7081 of 2019

Alakhdev Singh, s/o late Harihar Singh, Having regard to the facts and circumstances of the case, /o vill-Bariyawan, Manhara, PS-Amba Kutumba, Dist-Aurangabad-824202, presently residing at House of Baliran Singh, Naga Bigha, PS-Aurangabad Town, Dist-Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Maintenance Tribunal, Aurangabad through the Prsiding Officer-cum-Sub-Divisional Officer, Aurangabad
4. The Sub-Divisional Officer, Aurangabad
5. The District Collector, Land Reforms, Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Kaushik
For the Respondent/s : Mr.Md. Khurshid Alam (Aag12)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 11-07-2019

Re: I.A. no. 02 of 2019

The present interlocutory application has been filed for amending the relief portion of the main writ petition and now, the petitioner seeks setting aside of the entire proceedings pertaining to Miscellaneous (Maintenance) Appeal case no. 468 of 2018 as also the orders passed therein from time to time.

I.A. no. 02 of 2019 is allowed and the registry is directed to add the prayers mentioned in paragraph no. 1 of the present interlocutory application as an additional prayer to the main writ petition.



Re: CWJC no. 7081 of 2019

The learned counsel for the respondents submits that the petitioner has been put in possession of the property in question, hence nothing survives for consideration in the present writ petition.

The learned counsel for the petitioner does not dispute the position existing as on facts. At this juncture, it would be relevant to reproduce Section 16 of the Maintenance & Welfare of Parents & Senior Citizens Act, 2007, which reads as follows :-

“16. (1) Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal.

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.



(3) The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.

(4) The Appellate Tribunal may, after examining the appeal and the records call for either allow or reject the appeal.

(5) The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final.

Provided that no shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorised representative.

(6) The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

(7) A copy of every order made under sub-section (5) shall be sent to both the parties free of cost. ”

It is contended by the learned counsel for the petitioner that no appeal is maintainable at the behest of any person other than senior citizens or the parents, hence the appeal filed by the son and grandson of the petitioner before the District Magistrate, Aurangabad is not maintainable.

The learned counsel for the respondents are not in a position to dispute the position as existing in law.

Having regard to the facts and circumstances of the case, the entire proceedings as also the Miscellaneous



(Maintenance) Appeal case no. 468 of 2018 are quashed. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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