

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1617 of 2017

In
Civil Writ Jurisdiction Case No.15788 of 2008

Ataur Rahman, Son of Late Haji Babar Ali, Resident of Village - Karwamani,
P.S. - Thakurganj, District - Kishanganj.

... .. Appellant

Versus

1. The State of Bihar.
2. The Commissioner, Purnea Division, Purnea.
3. The Deputy Collector Land Reforms, Kishanganj.
4. Baroon Sah, Son of Late Kanoo Gopal Sah, Resident of Islampur, Police Station-Islampur, District - West Dinajpur (West Bengal).
5. Rabi Sah, Son of Late Kanoo Gopal Sah
6. Tapan Sah, Son of Late Kanoo Gopal Sah,
Both 5 and 6 residents of Thakurganj, Police Station - Thakurganj, District - Kishanganj.
7. Sapan Sah, Son of Late Kanoo Gopal Sah, Residing at Kharudah, Police Station - Thakurganj (Now Powakhali), District - Kishanganj.
8. Smt. Dulali Sah, Wife of Bholdeena Sah, Resident of Village and P.O. - Taiyabpur within the district of Kishanganj.
9. Smt. Hasi Sah, Wife of Keji Sah, Resident of Village and P.O. - Chakalya within the district of Uttar Dinajpur (West Bengal).
10. Smt. Kari Sah, Wife of Babul Sah, Resident of Village and P.O. - Kharudah within the district of Kishanganj.
Respondents No. 8 to 10 are daughters of Late Kanoo Gopal Sah of Village - Kharudah, Police Station - Thakurganj, District – Kishanganj.
... .. Respondents /Respondents
11. Nazra Akbari, wife of Md. Nayeem Yajdani
12. Md. Zakir, Son of Md. Kitabuddin
Both residents of village- Karwamani, P.S.- Thakurganj, Dist - Kishanganj.

... .. Petitioners-Respondents

Appearance :

For the Appellant	:	Mr. Ranjay Kumar Singh, Advocate
For the Respondent-State:		Ms. Nutan Sahay, AC to AAG-12
For the Private Respondents:		Mr. Arun Prasad Ambastha, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL
ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 03-12-2019

Heard learned counsel for the appellant, learned counsel for the State and learned counsel appearing for the respondent nos. 11 and 12.

2. In the present appeal under Clause 10 of the Letters Patent, the appellant has challenged the judgment dated 24.07.2017 passed by the learned single Judge in CWJC No.15788 of 2008 whereby while allowing the writ petition preferred by respondent nos. 11 and 12, he has set aside the order passed by the learned Commissioner, Purnea Division in Revision Case No.18 of 2006-07.

3. It is submitted by the learned counsel appearing for the appellant that the writ petition was allowed by the learned single Judge solely on the ground that the learned Commissioner, Purnea without considering the point of limitation entertained the revision petition and passed the impugned order. He contended that the ground on which the writ petition was allowed by the learned single Judge is erroneous on fact. He has drawn our attention towards the order dated 16.05.2017 passed by the learned Divisional Commissioner in Case No.18/06-07. The said order would clearly show that the learned Divisional Commissioner had condoned the delay and admitted the revision application while



calling for the lower court records and issuing notice to the opposite party.

4. Learned counsel appearing for the respondent-writ petitioners submitted that though the petitioners had taken several points in the writ petition, the learned single Judge allowed the writ petition solely on the ground that the limitation caused in filing the revision petition was not condoned. He contended that since the other points argued on behalf of the writ petitioners were not adjudicated, the appeal should not be allowed only because the limitation was condoned by the revisional court.

5. In reply, learned counsel appearing for the appellant submitted that the other points argued on behalf of the writ petitioners were duly considered by the learned single Judge but he did not find any force in those points.

6. Be that as it may, since the judgment impugned passed by the learned single Judge is based on wrong appreciation of fact, as the delay caused in filing the revision petition was already condoned while admitting the revision petition by the revisional authority, the judgment impugned can not be sustained.

7. Accordingly, the judgment dated 24.07.2017



passed by the learned single Judge in CWJC No.15788 of 2008 is set aside.

8. The writ petition is remanded back to the learned single Judge for deciding the case afresh after hearing the parties on all points.

9. The appeal stands allowed.

(Ashwani Kumar Singh, J.)

(Prakash Chandra Jaiswal, J.)

Sanjeet/-

AFR/NAFR	NAFR
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