

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.223 of 2020

In
Civil Writ Jurisdiction Case No.336 of 2020

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Afroz Ahmad, S/o Late Zahoor Beg, Resident of Mohalla- Kabirganj, P.O.
and P.S.- Sasaram, Distt.- Rohtas.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Sasaram, Rohtas.
3. The Additional Collector, Public Grievance Cell, Sasaram, Rohtas.
4. The Chairman, Nagar Parishad, Sasaram, District- Rohtas.
5. The Executive Officer, Nagar Parishad, Sasaram, District- Rohtas.
6. The Nizam Khan, S/o Shamshuddin Khan, resident of mohalla- Kabirganj,
Sasaram, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Behzad Akhtar, Advocate

For the Respondent/s : Mr.Yogendra Prasad Sinha, AAG-7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 26-08-2021 The appellant has prayed for the following Relief/s :-

“That this memorandum of appeal is being
preferred on behalf of the appellant against the
impugned order dated 7.2.2020 passed in C.W.J.C.
No. 336 of 2020 by Hon’ble Mr. Justice Chakradhari
Sharan Singh whereby and where under the Hon’ble



Single Judge was pleased to dismiss the aforesaid writ application without considering the legal points of the case that too on the day of Advocate strike called by the co-ordination committee of Associations. As such the petitioner was not provided the opportunity to defend his case before this Hon'ble High Court on account of aforementioned strike the counsel of the petitioner could not be able to place the case of the petitioner properly and make aware this Hon'ble High Court with the legal aspect of the matter.”

The instant Letters Patent appeal has been preferred against the judgment dated 07.02.2020 passed by a learned Single Judge of this Court in C.W.J.C. No. 336 of 2020, titled as Afroz Ahmad Vs. The State of Bihar & Ors.

The impugned order, in toto, reads as under:-

“There is no representation of behalf of the parties.

2. It is the petitioner's case that respondent no. 6 has encroached upon a government land by extending his balcony up to 2½ inch causing inconvenience to the general public. He had made an application in this regard, before the Public Grievance Redressal Officer under Bihar Right to Public Grievance Redressal Act, 2015.

3. It transpires that the petitioner's application was rejected by an order dated 25.06.2019 by the Sub-Divisional Public Grievance Redressal Officer. The petitioner, thereafter, preferred appeal, which was also dismissed by the Additional Collector,



Rohtas by an order dated 18.09.2019. The petitioner's second appeal has also been dismissed by the District Magistrate, Rohtas by an order dated 05.11.2019. The authorities have consistently held that there is no encroachment caused by respondent no. 6. The said orders of the second appellate authority dated 05.11.2019, first appellate authority dated 18.09.2019 and the order of the Sub-Divisional Public Grievance Redressal Officer dated 25.06.2019 have been put to challenge in the present writ application.

4. It is the petitioner's case that the respondents have relied merely on a report submitted by Executive Officer, Sasaram without applying their mind. According to the petitioner, the Assistant Engineer, who had made spot inquiry in the matter, was not competent to make the inquiry, he being suspended employee of the government and other persons are conniving with respondent no. 6.

5. Be that as it may, dispute in relation to the fact as to whether the encroachment has been caused by respondent no. 6 over a public land or not, cannot be gone into in the present proceeding under Article 226 of the Constitution of India. There are concurrent findings recorded by the statutory authorities, which appear to be reasoned and speaking.

6. I do not find any reason to interfere with the said orders. This application is accordingly dismissed."

We find no infirmity with the impugned order.

Learned counsel for the appellant seeks permission to withdraw the present appeal reserving liberty to initiate appropriate proceedings before the appropriate authority duly



constituted under the provisions of the **Bihar Public Land
Encroachment Act, 1956.**

Liberty as prayed for is granted.

Appeal stands disposed of.

Interlocutory Application(s), if any, shall stand
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit/-

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