

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.64 of 2021

In

Civil Writ Jurisdiction Case No.16702 of 2016

=====

Rajan Sahni @ Rajan Sahani Son of Late Ram Chandra Sahni @ Ramchandra Sahani grand Son of Late Basudeo Chaudahry, Resident of Mohalla-Sandalpur, Survey P.S. Sultanganj, at Present P.S.Bahadurpur, P.O. Mahendru, Patna-800006, in the town and District Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. District Magistrate, Patna.
3. Deputy Collector, Land Reforms, Patna City, Patna.
4. Circle Officer, Patna Sadar, Patna.
5. Rashida Khatoon Wife of Late Syed Shah Ashique Hussain, Resident of Village-DargahShah Arzan, Police Station-Sultanganj, District-Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Ashok Kumar, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam (AAG-12)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 27-08-2021

I.A. No. 2 of 2021

This interlocutory application has been filed for
granting leave to the appellant to prefer memorandum of

Letters Patent Appeal against the judgment and order dated 05.02.2019 passed by the learned Single Judge in C.W.J.C. No. 16702 of 2016.

It is submitted that appellant has interest in the land which was subject matter of the writ petition as such leave be granted to her to prefer this L.P.A. For the reasons as stated in this petition leave is granted to the appellant to prefer this L.P.A.

I.A. No. 2 of 2021 stands allowed.

I.A. 03 of 2021

This interlocutory application has been filed by the appellant for condoning the delay of 01 year 282 days in preferring the present LPA.

For the reasons, as stated in aforesaid interlocutory application, the delay in preferring the present LPA is condoned.

I.A. No. 3 of 2021 stands allowed.

L.P.A. No. 64 of 2021

Heard the learned counsel for the parties.

Aggrieved by the judgment and order dated 05.02.2019 passed in C.W.J.C. No. 16702 of 2016, passed by

learned Single Judge, appellant has preferred this Letters Patent Appeal.

Respondent no.5 Rashida Khatoon had filed writ petition for issuance of direction upon the state authorities for fixing the rent in respect of her land appertaining to Khesra No. 791, Khata No. 437/438, Tauzi No. 303 situated at Mauza-Sandalpur, Thana No. 11, District - Patna.

Respondent no.5 had earlier filed C.W.J.C. No. 2743 of 2015 for the same relief but writ petition was withdrawn with liberty to approach the competent authority and accordingly respondent no.5 filed a detailed application along with all necessary documents before the Circle Officer Patna, Sadar, for fixing the rent in respect of land as detail above but no action was taken as such writ petition was filed for said relief.

During pendency of writ petition the application of petitioner for fixation of rent before the Circle Officer was rejected and respondent no.5 challenged said order of Circle Officer by filing I.A. No. 2830 of 2018 and it was submitted that her application was rejected on the ground of pendency of C.W.J.C. No. 13076 of 2010 although said writ petition was dismissed on 04.04.2016 and as such the learned

Single Judge set aside the order passed by the Circle Officer with a further direction to pass a fresh order on the application of respondent no.5 within two months from the date of receipt/production of a copy of order passed by this court observing that this court has not expressed any opinion on the merits of the claim of the respondent no.5 and Circle Officer shall decide the application filed by respondent no.5 in accordance with law on its own merit.

Aggrieved by order passed by learned Single Judge appellant has preferred this L.P.A. although she was not a party in the writ proceeding on the ground that she has interest in the land in question and she was a necessary party in the writ petition.

As no adverse order has been passed against the appellant by the writ court and only direction has been given to the Circle Officer to consider the application of respondent no.5 in accordance with law on its own merit, the L.P.A. is disposed of with liberty to appellant to approach the Circle Officer to be impleaded as a party and to be heard before any final order is passed on the application filed by respondent no.5 before the Circle Officer, Patna Sadar.

With aforesaid observation this writ petition is

disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA