

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.323 of 2021

Along with

Interlocutory Application No. 01 of 2022

Arising out of

Civil Writ Jurisdiction Case No.2624 of 2020

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Satish Chandra Singh, aged about 73 years, (Male) Son of Late Parmeshwar Prasad Singh, Resident of Mohalla- Habibpur, P.O. and P.S.- Shohsarai, District- Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar through its Commissioner, Minor Irrigation, Government of Bihar, Patna.
2. The Commissioner, Finance Department, Government of Bihar, Patna.
3. The Commissioner, Minor Irrigation, Government of Bihar, Patna.
4. The Divisional Commissioner, Patna Division, Patna.
5. The Chief Engineer Minor Irrigation, Patna.
6. The Superintending Engineer, Minor Irrigation Circle, Patna.
7. The Executive Engineer Minor Irrigation Division, Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rakesh Kumar Shrivastava, Advocate
For the Respondent/s : Mr. Manoj Kumar Sinha, AC to GA-9

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date : 20-12-2022

Re.: Interlocutory Application No. 01 of 2022



Heard Mr. Rakesh Kumar Shrivastava, learned counsel for the appellant and Mr. Manoj Kumar Sinha, learned AC to GA-9 for the State.

2. The Interlocutory Application has been filed seeking condonation of delay of 382 days in filing of the appeal.

3. Learned counsel for the appellant submitted that soon after the passing of the order by the learned Single Judge, which is impugned in the present appeal, COVID pandemic had intervened and the appellant being 73 years of age and residing at Gaya was not in a position to take steps for filing the appeal.

4. Having considered the issue, the delay in filing of the appeal stands condoned.

5. Interlocutory Application No. 01 of 2022 stands disposed of.

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6. With consent of learned counsel for the parties, the matter has been heard on merits.

7. The present appeal is directed against the judgment and order dated 25.02.2020 passed in CWJC No. 2624 of 2020, by which the writ petition was dismissed by the learned Single Judge on the ground that the issue has attained finality up to the Division Bench.



8. The admitted factual position is that the appellant for the same cause had earlier moved in CWJC No. 3366 of 2011, which was allowed in favour of the appellant. However, the State preferred LPA No. 274 of 2012, which was allowed by order dated 02.04.2014. Thereafter, the appellant has again preferred CWJC No. 2624 of 2020 on the basis of an order passed by a co-ordinate Bench dated 19.03.2018 in LPA No. 599 of 2015, in terms of which, according to the appellant his claim is required to be considered afresh.

9. Learned counsel for the State submitted that besides the foundational facts of LPA No. 599 of 2015 being different, the issue having been considered up to the Division Bench, as far as the appellant is concerned, no relief can be granted by starting a fresh proceeding for identical cause.

10. The Court having considered the matter finds substance in the stand taken by learned counsel for the State.

11. In view of there being an order of the Division Bench in LPA No. 274 of 2012, against the appellant for the same cause of action, in the considered opinion of the Court, no relief can be granted in the present case. Thus, the Court finds that rightly the learned Single Judge has unsuited the claim of



appellant on this ground which this Court finds to be fully justified.

12. For reasons aforesaid, the present appeal being devoid of merit stands dismissed.

(Ahsanuddin Amanullah, J)

(Sunil Dutta Mishra, J)

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