

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15428 of 2015

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Gopal Khetan @ Gopal Pd. Khetan son of Late Radhey Shyam Khetan, R/o
Mohalla- Vishwanathganj Khagaria, Ward No. 7, P.S. and District- Khagaria

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector, Khagaria
3. The Circle Officer, Khagaria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya, Adv.
For the Respondent/s : Mr. P.K. Verma

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 27-04-2022 The present writ application has been filed for setting aside the order dated 31.03.2015 passed by the learned Collector, Khagaria in Land Encroachment Appeal No. 01/2014-15 and order dated 26.10.2013 passed in Encroachment Case No. 06/2010-11 by Circle Officer, Khagaria as well as order dated 19.05.2015 passed in Review Appeal Case No. 02/2015-16 by the learned Collector, Khagaria.

Mr. Dronacharya, learned counsel for the petitioner submits that the petitioner through his predecessor in interest is the owner of the subject land as detailed in para-5, 6 and 7 of the instant writ petition.

A proceeding under Bihar Public Land Encroachment Act (for short 'the Act') was initiated against the petitioner in



Encroachment Case No. 06/2010-11 for removal of encroachment made over the public land bearing plot Nos. 1382, 1386, 1387, 1388 and 1390 having an area of 3 Katthas and odd situated at Mauza, Mathurapur, Thana No. 265. The Circle Officer decided the Encroachment Case No. 06/2010-11 against the petitioner *vide* his order dated 26.10.2013 and the petitioner was directed to remove the encroachment from the land in question.

An appeal was preferred by the petitioner *vide* Land Encroachment Appeal No. 01/2014-15 under Section 11 of the Act, along with condonation of delay application but the learned Collector has rejected the same on the ground that the appeal is barred by limitation and a review application preferred by the petitioner *vide* Review Appeal Case No. 02/2015-16 has also been dismissed by the learned Collector, Khagaria.

Learned counsel for the petitioner submits that petitioner in his condonation of delay application has clearly stated that due to illness of the petitioner, he could not file the appeal within time and sufficient cause was shown in the condonation of delay application. But the learned Collector without appreciating the reasons mentioned in the said condonation delay application, has rejected the appeal of the



petitioner on technical ground that the appeal is barred by limitation.

I have heard learned counsel for the petitioner. No one appears for the State.

From perusal of the order passed by the learned Collector, Khagaria under appeal, it appears that instead of deciding the appeal on merit, learned Collector has dismissed the same on technical ground of limitation.

The petitioner is claiming his right upon the subject land for a long period of time i.e., since 1938 inasmuch as according to the petitioner, the land in question was purchased by his predecessor in interest by way of sale deed dated 04.07.1938.

Taking into consideration the nature of dispute which the petitioner has raised in this writ application, in my opinion, the interest of justice shall be sub-served if the appeal of the petitioner is heard on its own merit.

Accordingly, the impugned order dated 31.03.2015 passed in Land Encroachment Appeal No. 01/2014-15 as well as order dated 19.05.2015 passed in Review Appeal Case No. 02/2015-16 by the learned Collector, Khagaria, are set aside with a direction to the Collector, Khagaria to consider the appeal filed by the petitioner on its own merit after condoning the delay



in filing of the appeal.

(Anil Kumar Sinha, J)

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