

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 242 of 2022

In

Civil Writ Jurisdiction Case No.7278 of 2016

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1. Anmol Yadav Son of Late Hari Lal Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District District-Araria.
 2. Raj Kishore Yadav Son of Late Hari Lal Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District District-Araria.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secreary, Revenue, Land Reforms, Government of Bihar, Patna.
2. The Sub-Divisional Officer, Forbesganj, Araria
3. The Circle Officer, Narpatganj, Forbesganj, Araria.
4. Rajo Yadav @ Rajendra Yadav Son of Late Panchanand Yadav @ Panna Lal Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District-Araria.
5. Satto Yadav Son of Late Panchanand Yadav @ Panna Lal Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District-Araria.
6. Ramanand Yadav Son of Late Panchanand Yadav @ Panna Lal Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District-Araria.
7. Tarkeshwar Yadav Son of are Late Uday Chand Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District-Araria.
8. Jay Kumar Yadav Son of Late Uday Chand Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District-Araria.
9. Anand Yadav Son of Late Uday Chand Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District-Araria.
10. Shiva Nand Yadav Son of Late Uday Chand Yadav Resident of Village-Kanhaili, Police Station-Narpatganj, District-Araria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sriram Krishna, Advocate
For the Respondent/s : Md. Khurshid Alam, AAG-12

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 23-07-2024

1. Heard learned Counsel for the appellants and



learned counsel for the respondents.

2. The instant appeal has been preferred against the order dated 6.12.2016 passed in CWJC no. 7278 of 2016.

3. The case of the petitioners-appellants in brief is that the land in question was the *Sikmi* land of the ancestors of the appellants and they have been coming in possession over the same. Their name was recorded in the *Khatiyani* and they were in possession for more than 12 years continuously. Hari Yadav, ancestor of the appellants sold his share in the land in question measuring 56 ½ decimal to his son- appellant no.2 by a registered sale deed dated 31.3.1984. Similarly, after the death of Chand Yadav, his son also sold 56 ½ decimal of land to the appellant no.1. The appellants came in possession over the land in question.

4. It is further case of the appellants that on filing Case no.2/07-08 before the learned Circle Officer, Narpatganj under the Bihar Tenancy Act, 1885, the Circle Officer called for a report from the Circle Inspector and Halka Karamchari and on the basis of the report gave his finding that the appellants were in possession over the land in question for over 12 years as *Sikmidars*. The order of the Circle Officer was set aside in appeal preferred by respondent nos. 4 to 6 by the Sub-Divisional



Officer, Forbesganj and the matter was remanded back. On remand, the Circle Officer got a report from the Circle Inspector and the Halka Karamchari and on the basis of the said report which was contrary to the earlier report gave a finding that the respondents were protected tenants under section 48C of the B.T Act. The Circle Officer rejected the case filed by the appellants. The appeal preferred by the appellants was dismissed by the Sub-Divisional Officer, Forbesganj and the case (BLT Case no.733 of 2014) filed against the said order in the Bihar Land Tribunal was also dismissed on 1.3.2016.

5. The appellants moved this Court in CWJC no. 7278 of 2016 which was dismissed by order dated 6.12.2016, impugned herein.

6. The order dated 6.12.2016 was challenged by the appellants by filing L.P.A no.234 of 2017 which was dismissed as withdrawn by order dated 26.9.2018 with liberty to the appellants to file a review application. The review application (Civil Review no. 484 of 2018) preferred by the appellants for review of order dated 6.12.2016 passed in CWJC no. 7278 of 2016 was dismissed by order dated 23.3.2022.

I.A. no.1 of 2022

7. The instant application has been filed for condoning



the delay of 5 years 4 months and 12 days in filing of the instant appeal.

8. Having heard learned counsel for the parties and having perused the contents of the petition, taking into consideration the orders passed at different stages including the earlier Letters Patent Appeal ie L.P.A no.234 of 2017 having been preferred by the appellants and on withdrawal of the same, the appellants having preferred Civil Review no.484 of 2018 which came to be dismissed by order dated 23.3.2022 and the instant appeal was filed on 19.5.2022, in the opinion of the Court, the appellants have made out sufficient cause for condoning the delay in filing of the instant appeal.

9. The delay is condoned and the application is allowed.

10. I.A no.1 of 2022 stands disposed of.

L.P.A no. 242 of 2022

11. Having heard learned counsel for the parties and having perused the material on record, this Court finds that on receipt of the report from the Circle Inspector and Halka Karamchari, by order dated 21.4.2012, the Circle Officer, Narpatganj was pleased to reject Case no.2 of 07-08/01 of 10-11 holding that the respondents were protected tenants under



section 48C of the B.T. Act having not more than 5 and 10 acres of land. The Appeal no.7/11-12 preferred by the appellants was rejected by order dated 4.7.2014 by the Sub-Divisional Officer, Forbesganj. The B.L.T Case no.733 of 2014 preferred by the appellants was also dismissed on 1.3.2016 by the learned Bihar Land Tribunal.

12. The Court finds that there is concurrent finding of fact by all the three authorities and the claim of the appellants that they are in possession of the land for more than 12 years continuously and have acquired *Sikmi* rights was incorrect.

13. It was contended by learned counsel appearing for the appellants that on remand, the spot Inspection report of the Circle Inspector and the Halka Karamchari not being consistent with the earlier report, the Circle Officer ought to have inspected the site himself. It may only be observed here that there is no statutory mandate to support the contention of learned counsel for the appellants, requiring the Circle Officer to carry out the inspection himself.

14. There being concurrent finding of fact by all the three authorities, the learned Single Judge rightly rejected the writ application preferred by the appellants. The Court finds no illegality in the same.



15. There is no merit in the instant application and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
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