

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13756 of 2024

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Mamta Kuamri Wife of Satish Kumar Gupta Resident of Village-Bahadurpur
Armauli, Ward Number 12 P.O.-Ghatho P.S.-Dalsingsarai, District-
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Samastipur.
2. The Collector Cum District Magistrate, Samastipur.
3. The District Program Officer, ICDS, Samastipur.
4. The Child Development Officer, Dalsinghsarai, Samastipur.
5. The Block Programme Officer, Dalsinghsarai, Samastipur.
6. Munni Kumari W/o-Shyam Lal Mahto Resident of Village-Bahadurpur
Armauli, Ward Number 12 P.O.-Ghatho P.S.- Falsingsarai, Distirct-
Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mritunjay Kumar, Advocate
For the Respondent/s	:	Mr. Kumar Manish, Advocate
		Mr. Madan Mohan, AC to SC- 5

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 10-09-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for
following reliefs:-

*(i) For issuance of an
appropriate order, direction, wirt in
the nature of Writ of certiorari for
quashing the order dated 28.08.2023
passed in Anganbari Appeal Case No.
91/2016 by respondent number 2,
which has not passed the orders on*



merits of appeal rather it has been passed stating that the appellant (Petitioner) has lost interest in the appeal proceeding (Annexure-P/3).

(ii) For issuance of an appropriate order, direction, writ in the nature of Writ of mandamus directing the respondent no. 2 to decide the Anganbari Appeal Case No. 91/2016, after giving opportunity of hearing to the parties to the appeal proceeding and on merits.

(iii) For any other relief or reliefs to which the Petitioner may be found entitled in the fact and circumstances of the present case.

3. Learned counsel for the petitioner submits that by the said order, the appeal pending before the Collector-Cum-District Magistrate, Samastipur has been dismissed for default. Counsel submits that it is bad in law. Counsel further submits that this appeal was pending before the Collector-Cum-District Magistrate, Samastipur since 2016 and after final hearing on 16.07.2019, this appeal was fixed for passing final order but the said order was not passed. Counsel submits that in this regard, no communication was made from the Court to the petitioner and again this case was fixed on 18.04.2023 for order. Counsel



further submits that thereafter, the order has been passed on 28.08.2023 i.e., after lapse of about four months. Counsel submits that the mother procedure in the civil litigation is the Code of Civil Procedure, 1908 and Order XX Rule 1 of Code of Civil Procedure, 1908 categorically indicates as follows:-

[1. Judgment when pronounced.-(1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:

Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not



practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders.]

[(2) Where a written judgment is to be pronounced, it shall be sufficient if the findings of the Court on each issue and the final order passed in the case are read out and it shall not be necessary for the Court to read out the whole judgment.

(3) The judgment may be pronounced by dictation in open Court to a shorthand writer if the



*Judge is specially empowered by the
High Court in this behalf.*

*Provided that, where the
judgment is pronounced by dictation
in open Court, the transcript of the
judgment so pronounced shall, after
making such correction therein as
may be necessary, be signed by the
Judge, bear the date on which it was
pronounced, and form a part of the
record.*

4. Here, admittedly four months have been passed but final order has not been made and also no fresh notice for re-hearing has been issued. Counsel submits that the appellate authority has adopted a methodology which is unknown to law and, therefore, he submits that the order passed by the Collector-Cum-District Magistrate, Samastipur is absolutely illegal and the same be set aside, directing the Collector-Cum-District Magistrate, Samastipur to pass a final order on merit after hearing both the parties by fixing a date.

5. Learned counsel for the State, on the other hand, submits that due to none appearance of the appellant on series of



occasions, this order was passed but he accepts that from the date of reserve, final order has to be passed within 30 days.

6. In the light of the submissions made the order dated 28.08.2023 passed in Anganbari Appeal Case No. 91 of 2016 by respondent No. 2 is hereby set aside and the Collector-Cum-District Magistrate, Samastipur (respondent No. 2) is hereby directed to issue a fresh notice upon both the appellant and the respondents in the said appeal and he is also directed to fix a date of hearing in this matter and decide the appeal after hearing within 90 days from the date of completion of the appearance of the appellant (present petitioner and private respondents).

7. With the aforesaid observation and direction the writ petition stands disposed off.

(Dr. Anshuman, J.)

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