

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.356 of 2023

In

Civil Writ Jurisdiction Case No.23805 of 2019

=====

Rameshwar Chaubey Son of Late Radha Mohan Chaubey, resident of Village-
Hirpur, Brahmpur, P.S.- Brahmpur, District- Buxar.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Land Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Member, Administrative, Bihar Land Tribunal, Patna.
3. The Director, Consolidation, Bihar, Patna.
4. The Deputy Director, Consolidation at Bhojpur, Arrah.
5. The Joint Director, Consolidation, Bihar, Patna.
6. The Consolidation Officer, Brahmpur, District- Bhojpur.
7. Sri Ravindra Upadhyay, son of Late Triveni Upadhyay, resident of Village- Brahmpur, P.S.- Brahmpur, District- Buxar.
8. Sri Surendra Upadhyay, son of Late Triveni Upadhyay, resident of Village- Brahmpur, P.S.- Brahmpur, District- Buxar.
9. Sri Harendra Upadhyay, son of Late Triveni Upadhyay, resident of Village- Brahmpur, P.S.- Brahmpur, District- Buxar.
10. Sri Yogendra Upadhyay, son of Late Triveni Upadhyay, resident of Village- Brahmpur, P.S.- Brahmpur, District- Buxar.
11. Satyndra Upadhyay, son of Late Triveni Upadhyay, resident of Village- Brahmpur, P.S.- Brahmpur, District- Buxar.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Kamal Nayan Choubey, Sr. Advocate Mr. Ashok Kumar Garg, Advocate Mr. Dineshwar Pandey, Advocate Mr. Prashant Kumar, Advocate Mr. Ambuj Nayan Chaubey, Advocate
For the Respondent/s	:	Mr. Md. Khurshid Alam (AAG-12) Mr. Shailendra Kumar Singh, Advocate

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 20-03-2025

Heard learned counsel for the parties.



Re: I. A. no. 1 of 2023

2. The instant interlocutory application has been filed for condonation of delay of about 1140 days in filing of the present appeal.

3. Having heard learned counsel for the parties and taking into consideration the contents of the application, the Court is satisfied that the appellant has made out a case for condonation of delay in preferring the instant appeal.

4. The delay in filing the instant appeal is condoned.

5. I. A. no. 1 of 2023 stands allowed.

Re: LPA no. 356 of 2023

6. The instant appeal has been preferred against the judgment dated 2.12.2019 passed in CWJC no. 23805 of 2019, whereby the learned Single Judge was pleased to dispose of the writ petition with the observation that the Court concerned deciding Title Suit no. 126 of 2009 shall do the same, on the basis of materials produced before it by the parties, in accordance with law, without being prejudiced by any observation/finding which may have been made in the orders, either of the Consolidation Officer, the Deputy Director of Consolidation, the Joint Director of Consolidation or the Bihar Land Tribunal.



7. The case of the appellant in brief is that Triveni Upadhyay (father of respondent nos.7 to 11) filed Title Suit no.454 of 2002 for family partition wherein the appellant was not made a party, no notice was issued to him nor did he have any information about the same. A collusive consent decree was drawn up and on the basis of the same an application was filed by respondent no.11 before the Consolidation Officer and an order was passed in favour of respondent no.11. On an appeal having been preferred by the appellant, the Deputy Director of Consolidation by his order dated 2.1.2008 reversed the order of the Consolidation Officer. Revision Case no.196 of 2008 and 197 of 2008 was preferred both by respondent no.11 as also the appellant and the Joint Director of Consolidation by his common order dated 29.7.2016 was pleased to restore the order of the Consolidation Officer. The appellant moved the Bihar Land Tribunal against the order dated 29.7.2016 passed by the Joint Director of Consolidation vide B.L.T. Case no. 806 of 2016. Taking note of the fact that in the meantime Title Suit no. 126 of 2009 had been filed by the appellant in the Court of learned Sub-Judge, Senior Division no.5, Buxar for declaration of his title over the disputed land and also for setting aside the award passed by the *Lok Adalat*, Buxar and which was still



pending, the learned Member Administrative, Bihar Land Tribunal set aside the order passed by the Joint Director of Consolidation, affirmed the order of the Deputy Director of Consolidation, allowing the application with a direction to the parties to pursue the pending civil suit.

8. The appellant filed CWJC no.23805 of 2019 for quashing the order dated 21.9.2017 passed by the Bihar Land Tribunal as also for other reliefs. The same having been disposed of by the learned Single Judge with the observation that the Court concerned would decide Title Suit no. 126 of 2009 on the basis of the materials produced before it, the instant appeal has been preferred.

9. It may be noted here that CWJC no. 2395 of 2009 was preferred by the appellant in this Court praying therein to declare the judgment and decree dated 30.8.2003 passed by the *Lok Adalat*, Buxar in Case no. 454 of 2002 as not binding upon the appellant's right, title and possession over the land in dispute and for other reliefs.

10. The learned Single Judge by his order dated 24.2.2009 was pleased to dismiss the writ application with the observation that in case the title of the appellant is sought to be affected by any action including by an order of the *Lok Adalat*,



it is always open for him to seek appropriate relief by filing a title suit.

11. An appeal being LPA no. 665 of 2018 was preferred by the appellant against the order dated 24.2.2009 dismissing CWJC no. 2395 of 2009. In the said appeal, taking note of section 22E(4) of the Legal Services Authorities Act, 1987 ('Act of 1987' in short) which makes it clear that an award made by the permanent *Lok Adalat* cannot be called in question in any original suit together with the fact that the appellant who was not a party to the proceedings in the *Lok Adalat* cannot be rendered remediless, this Court set aside the judgment of the learned Single Judge dated 24.2.2009 passed in CWJC no. 2395 of 2009 and has restored the writ petition with the observation for the learned Single Judge to hear and decide the issue raised therein.

12. This Court has also taken note in its order dated 20.3.2025 passed in LPA no. 665 of 2018 that the appellant has already filed a petition for withdrawal of the suit (Title Suit no. 126 of 2009) and that he would be required to withdraw the same, if not already withdrawn.

13. In view of the facts and circumstances stated herein above, the challenge to the award dated 30.8.2003 of the



Lok Adalat in Title Suit no. 126 of 2009 having been held to be in teeth of section 22E(4) of the Act of 1987, the order of the learned Single Judge, impugned herein, cannot be sustained and the same is set aside.

14. The appeal is allowed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

avinash/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.03.2025
Transmission Date	

