

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.390 of 2025

In

Civil Writ Jurisdiction Case No.17264 of 2014

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1. Mahendra Yadav Son of Thako Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 2. Mindra Yadav, Son of Thako Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 3. Upendra Yadav, Son of the Thako Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 4. Yogi Yadav, Son of Thako Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 5. Durganand Yadav, Son of Upendra Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 6. Suraj Yadav, Son of Chhabu Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 7. Binod Yadav, Son of Dev Narayan Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 8. Sanjeev Yadav, Son of Late Buchilal Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 9. Guru Dayal, Son of Khushi Lal Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 10. Baidyanath Yadav, Son of Ramji Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 11. Naresh Yadav, Son of Boku Yadav @ Bauku Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 12. Jawahar Yadav, Son of Chhatki Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 13. Devkant Yadav, Son of Jaisi Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 14. Domi Yadav, Son of Jaisi Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 15. Hira Yadav, Son of Late Vishundev Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 16. Dilip Yadav, Son of Jangbahadur Yadav, Resident of Village- Kiratpur, P.S.- Jamalpur, District - Darbhanga.
 17. Arun Kumar Ram @ Arun Ram, Son of Dev Narayan Ram, Resident of Village- Simari, P.S.- Ghanshyampur, District - Darbhanga.
 18. Shrawan Prasad @ Shrawan Ram, son of Dev Narayan Ram, Resident of Village- Simari, P.S.- Ghanshyampur, District - Darbhanga.

... .. Appellant/s

Versus



1. The State of Bihar.
2. Inspector General of Police, Muzaffarpur Zone, Muzaffarpur.
3. Dy. Inspector General of Police, Darbhanga.
4. District Magistrate and Collector, Darbhanga.
5. Senior Superintendent of Police, District Darbhanga.
6. Officer in Charge, Jamalpur P.S., Darbhanga.
7. Maheshwar Yadav, Son of Late Sita Ram Yadav, Resident of Village-Kiratpur, Police Station- Jamalpur, District - Darbhanga.
8. Singheshwar Yadav, Son of Late Sita Ram Yadav, Resident of Village-Kiratpur, Police Station- Jamalpur, District - Darbhanga.
9. Sushil Kumar Yadav, Son of Late Sita Ram Yadav, Resident of Village-Kiratpur, Police Station- Jamalpur, District - Darbhanga.
10. Anil Kumar Yadav, Son of Late Sita Ram Yadav, Resident of Village-Kiratpur, Police Station- Jamalpur, District - Darbhanga.
11. Punil Kumar Yadav, Son of Late Sita Ram Yadav, Resident of Village-Kiratpur, Police Station- Jamalpur, District - Darbhanga.
12. Chandrakala Devi, Daughter of Late Sita Ram Yadav, Wife of Suresh Prasad Yadav, Resident of Baluaha, Police Station - Bheja, District- Madhubani.
13. Indra Kala Devi, daughter of Late Sita Ram Yadav, Wife of Satya Narayan Yadav, Resident of village- Sonwa Police Station - Biraul, District- Darbhanga.
14. Subh Kala Devi, Daughter of Late Sita Ram Yadav, Wife of Gurucharan Yadav, Resident of Village - Bagras Police Station Ghanshyampur, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ratnesh Kumar Singh, Adv.
Mr. Sanjay Kumar, Adv.
For the Respondent/s : Mr.Addl. Advocate General (12)

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 15-09-2025

Appellants have assailed the order of the learned
Single Judge dated 06.02.2025 passed in CWJC No.17264 of
2014. Respondents in the present LPA were petitioners before the



learned Single Judge. They have sought for the following reliefs in the writ petition:

“For issuance of a Writ of Mandamus or any other Writ, Order/Orders to the Sr. Superintendent of Police Darbhanga District to act on various orders of the court and to take such action by which the Petitioner can get back full possession of his land measuring 32 Bighas 15 Kathas 14 Dhurs from his “Gotias” who are not vacating the same and threatening the Petitioner.

And to pass such orders as may be deemed fit by your Lordships in the facts and circumstances of the case.”

2. Firstly, writ petition itself is not maintainable in view of the fact that respondents herein are entitled to file execution petition with reference to the cause of action dated 25.04.1978 passed in Partition Suit No.38 of 1975. Hon’ble Supreme Court in the case of **Municipal Corporation of Greater Mumbai and Others Vs. Vivek V. Gawde** reported in **2024 SCC OnLine SC 3722 in paragraph- 14 and 15** held that writ petition is not maintainable against any orders passed in civil suits.

3. Assuming that writ petition is maintainable, the learned Single Judge has failed to take note of delay and laches for the reasons that cause of action accrued to the respondents herein



on 25.04.1978 in so far as disposal of Partition Suit No.38 of 1975
whereas the writ petition was filed in the year 2014. On these two
counts the appellants have made out a case so as to interfere with
the order of the learned Single Judge dated 06.02.2025 passed in
CWJC No.17264 of 2014.

4. Accordingly, order of the learned Single Judge dated
06.02.2025 stands set aside and CWJC No.17264 of 2014 is
rejected; LPA is allowed. Pending I.As, if any stands disposed of.

(P. B. Bajanthri, ACJ)

(Alok Kumar Sinha, J)

Prakash Narayan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.09.2025
Transmission Date	NA

