

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7767 of 2024

Navin Kumar @ Navin Kumar Gupta son of Late Ramesh Gupta, resident of
Village- Sanhauliganj, P.S. Khagaria, District- Khagaria.

... .. Petitioner/s

Versus

1. State of Bihar through the Principal Secretary, Department of Land and Revenue, Government of Bihar Patna.
2. The District Collector, Khagaria.
3. The Addl. Collector, Khagaria.
4. The D.C.L.R. Khagaria.
5. The Sub-divisional Officer, Khagaria.
6. Anchal Adhikari/Circle Officer, Khagaria.
7. The Executive Officer, Nagar Parishad (Khagaria Municipality), Khagaria.
8. Raj Kumar Poddar, Ex-Chairman Khagaria Municipality, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate
For the Respondent/s : Mr. Kumar Alok, SC-7
For the Respondent No. 7 : Mr. Krishna Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 28-04-2025 1. Heard learned counsel for the petitioner, learned AC
to SC-7 for the State and learned counsel appearing on behalf of
the respondent no. 7.

2. Learned counsel appearing on behalf of the petitioner
submits that the instant writ application has been filed seeking
quashing of the order dated 30.12.2023 in Encroachment Appeal
Case No. 02/2023-24 whereby the Additional Collector, Khagaria
has dismissed the appeal of the petitioner on the ground of
limitation without considering the case of the petitioner on merit.

3. Learned counsel for the petitioner further submits



that a counter affidavit on behalf of the respondents no. 2, 3 and 4 has been filed wherein at para 13, it has been specifically recorded that the petitioner filed an appeal before the Additional Collector, Khagaria along with the limitation application on 03.04.2023. However, it is pertinent to state that the petitioner failed to satisfy the Court with appropriate reason as to why the delay in filing appeal occurred.

4. Learned counsel appearing on behalf of the petitioner submits that either what has been pleaded in the counter affidavit is correct or what has been recorded in the order impugned is correct but definitely both the stands i.e. the stand taken in the counter affidavit and the ground on which the appeal of the petitioner was rejected cannot co-exist. It is further submitted that it appears that the authorities in a mechanical manner have filed the counter affidavit without realizing that the counter affidavit is being filed before the High Court. It is next submitted that the Additional Collector, Khagaria while rejecting the appeal by his order dated 30.12.2023 has recorded that the appeal was barred by limitation and the petitioner (appellant) has not filed any application seeking condonation of delay in filing the appeal but then from perusal of the counter affidavit, it would manifest that the authorities accept that a limitation application was filed but then the petitioner was not able to satisfy the Court with



appropriate reason as to why there was delay in filing the appeal, as such, the stand taken in counter affidavit and the reason assigned for rejecting the appeal is dichotomic.

5. Learned State Counsel is not in a position to rebut the submissions of the learned counsel appearing on behalf of the petitioner.

6. After hearing the learned counsel for the parties, the Court is in complete agreement with the submissions made by the learned counsel appearing on behalf of the petitioner.

7. Having regard to the facts and circumstances of the case, the order dated 30.12.2023 in Encroachment Appeal Case No. 02/2023-2024 passed by the Additional Collector, Khagaria rejecting the appeal on the ground of limitation is hereby set aside and the matter is remanded back to the Additional Collector, Khagaria for deciding the appeal afresh in accordance with law within a period of three months from the date of receipt/production of a copy of this order after giving proper opportunity of hearing to the petitioner and other concerned.

(Satyavrat Verma, J)

Kundan/-

U			
---	--	--	--

