

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.40 of 2018

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Water Resources Department, Government of Bihar, Old Secretariat, Patna.

... .. Appellant/s

Versus

Sri Rajendra Prasad Singh Son of Late Nandji Singh, retired Assistant Engineer, Water Resources Department, Government of Bihar, Resident of Opposite Dayal Enclave, Pathar Gali, Saristabad Road, Gardanibagh, P.S. Gardanibagh, Town and District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Swapnil Kumar Singh, AC to GP 19
For the Respondent/s : Mr. Nazir Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

24 22-08-2025 In the instant appeal, four I.As are listed for hearing.

2. It appears from the record that ***I.A. No. 1 of 2021*** was disposed of by this Court vide order dated 25th July 2024. Therefore, *I.A. No. 1 of 2021* is wrongly listed as pending. *I.A. No. 1 of 2021* shall be expunged from the list.

3. ***I.A. No. 3 of 2024*** is an application for condonation of a delay of 433 days in filing the cross-objection. The respondents/petitioners have prayed for condonation of the said delay and for acceptance of the cross-objection.

4. I have heard the learned Advocate for the respondents/petitioners and the appellant/opposite party. Having



heard the learned counsel for the parties and upon perusal of the materials on record, this Court finds that the petitioners were prevented by sufficient cause from preferring the cross-objection within the prescribed time. The delay in filing the cross-objection is, therefore, liable to be condoned.

5. Accordingly, the delay is condoned. The application under Section 5 of the Limitation Act is allowed. Let the cross-objection filed by the respondents be taken on record.

6. **I.A. No. 4 of 2024** is an application for amendment of the cross-objection by incorporating the names of all the appellants as opposite parties. The proposed amendment is formal in nature and does not alter the nature or character of the appeal. Therefore, the application is allowed.

7. Let the names of all the appellants be incorporated as opposite parties in the cause title of the cross-objection, along with the complete details of the respondents, as stated in paragraph No. 3 of the aforesaid application.

8. **I.A. No. 5 of 2025** is an application for producing additional evidence by the respondents/cross-objectors in the appeal. I have heard the learned Advocate for the petitioners and the learned Advocate for the appellant/opposite party. Considering the nature of the application, the said application



shall be taken up for hearing along with the appeal.

9. This is an appeal against the judgment and decree passed in a suit for damages filed by the plaintiff/respondent for illegal suspension and termination from service. Initially, the suit was decreed. The appellant, the State of Bihar, has filed the instant appeal challenging the said decree.

10. During the pendency of the appeal, the respondent/petitioner filed a cross-objection stating, *inter alia*, that during the period of suspension, he had to sustain himself and maintain his family by selling lands situated in Patna as well as in the village areas of the State of Bihar under the jurisdiction of the trial court. The trial court considered the loss suffered by the petitioner due to the sale of property in Patna but failed to consider the loss incurred as a result of the sale of land in the village areas.

11. The respondent filed certain certified copies of the sale deeds; however, those documents were not marked as exhibits. Therefore, it is alleged in the cross-objection that the damages were not properly assessed by the trial court.

12. Therefore, the respondents have filed *I.A. No. 5 of 2025* for production of additional evidence under Order 41 Rule 27 of the CPC. The instant appeal and the application under



Order 41 Rule 27 of the CPC is accordingly, disposed of.

13. Having heard the learned Advocates for the petitioner and the opposite party, this Court is of the view that the respondents should be given liberty to bring on record the facts raised in the cross-objection by way of amendment of the plaint. Subsequently, they are also required to adduce evidence to prove the sale deeds executed in respect of the property situated in the village areas, so that the said facts may be duly considered by the trial court.

14. Therefore, this Court is of the view that the judgment and decree passed in *Title Suit No. 194 of 2013* is required to be set aside, and an opportunity ought to be given to the plaintiff/respondent to adduce evidence to prove the sale deeds in respect of the property situated outside Patna, for proper assessment of compensation and damages. The appellant/defendant shall also be given an opportunity to cross-examine the plaintiff with regard to the said documents.

15. For the reasons stated above, the instant appeal is dismissed on contest. The judgment and decree passed in favour of the respondent in *Title Suit No. 194 of 2013* is, accordingly, set aside. The suit be and the same is remanded back to the trial court for further hearing and disposal as per direction given



below.

16. The plaintiff/respondent is at liberty to adduce further evidence, as per his application under Order 41 Rule 27 of the CPC, before the trial court, subject to cross-examination. The trial court shall give the plaintiff/respondent an opportunity to prove the sale deeds, if any, by virtue of which he allegedly sold the property situated outside Patna during the period of his suspension to sustain himself and his family members, and to assess the amount of damages and compensation afresh on the basis of the evidence on record.

17. After recording the evidence as aforesaid and giving opportunity to the parties of argument, the learned Trial Judge shall write down the Judgment afresh. The appeal is thus disposed of contest.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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