

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1149 of 2024

In
Civil Writ Jurisdiction Case No.13792 of 2024

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Vikash Ranjan @ Chaman Singh S/o- Late Chittaranjan Prasad Singh Vill.
and Post- Dumri, P.S.- Mohanpur, (Patory), Dist.- Samastipur, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms,
Government of Bihar, Patna.
3. The Collector-cum- District Magistrate, Samastipur.
4. The Circle Officer, Mohanpur, District- Samastipur.
5. Balram Roy, S/o- Late Mohan Ray Vill.- Baghra Post- Dumri, P.S.-
Mohanpur (Patori), District- Samastipur.
6. Guru Charan Ray, S/o- Ramtahal Ray Vill. and Post- Dumri, P.S.-
Mohanpur, Dist.- Samastipur.
7. The D.C.L.R., Patori, Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Pankaj Kumar Das, Advocate Mr. Kundan Kumar Ojha, Advocate Mr. Navneet Prabhakar, Advocate
For the State	:	Mr. Md. Khurshid Alam, AAG-12 Mr. Arun Kumar Bhagat, AC to AAG-12
For the Resp. No. 6	:	Mr. Mithilesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-08-2025

Re: I. A. No. 02 of 2024

The present interlocutory application has been filed
under Section-5 of the Limitation Act for condonation of delay
of 20 days caused in preferring the present appeal.

2. Heard Mr. Pankaj Kumar Das, learned counsel for



the applicant/appellant, Mr. Arun Kumar Bhagat, learned A.C. to AAG-12 for the State and Mr. Mithilesh Kumar, learned counsel for the respondent No.6.

3. We have considered the submissions canvassed by learned counsel for the parties. We have also perused the averments made in this application.

4. In view of the averments made in this application and the submissions canvassed by the learned counsel for the applicant/appellant, we are of the view that the applicant/appellant has shown sufficient cause for not preferring the appeal within the period of limitation.

5. Accordingly, delay of 20 days caused in preferring the present appeal is, hereby, condoned.

6. I. A. No. 02 of 2024 stands allowed.

Re: L.P.A. No. 1149 of 2024

7. The present appeal has been filed under Clause-X of the Letters Patent of Patna High Court Rules against the order dated 11.09.2024, rendered by learned Single Judge in Civil Writ Jurisdiction Case No. 13792 of 2024.

8. Heard Mr. Pankaj Kumar Das, learned counsel for the appellant, Mr. Arun Kumar Bhagat, learned A.C. to AAG-12 for the State and Mr. Mithilesh Kumar, learned counsel for



respondent No.6.

9. Learned counsel for the appellant has referred the impugned order and, thereafter, contended that the learned Single Judge has disposed of the captioned writ petition by relegating the petitioner to the appellate authority i.e., the Divisional Commissioner, despite which, the learned Single Judge in paragraph No. 9 of the impugned order has observed that till final disposal of the appeal, the order passed by the concerned authority i.e., the Deputy Collector Land Reforms (hereinafter referred to as the 'D.C.L.R.'), shall not be given effect to. Learned counsel has, therefore, contended that though the learned Single Judge did not entertain the petition filed by the writ petitioner on the ground of availing statutory alternative remedy, granted the interim relief to the writ petitioner till final disposal of the appeal. It is contended that on the date of disposal of the petition, even the appeal was not preferred by the original writ petitioner. Learned counsel would further contend that while passing the said order, the learned Single Judge did not assign any reason for grant of such relief in favour of the original writ petitioner. It has been pointed out from the records that the aforesaid order came to be passed on 11.09.2024 and till date, the notice in the appeal filed by the original writ petitioner



is not received by the present appellant. Learned counsel, therefore, urged that the impugned order be set aside. Learned counsel for the appellant has placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of ***Hotel Queen Road Private Limited & Ors. vs. Ram Parshotam Mittal & Ors.***; reported in ***(2014) 13 SCC 646***, and more particularly paragraph No. 16 thereof. At this stage, learned counsel has also placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of ***Ajay Mohan & Ors. vs. H.N. Rai & Ors.***; reported in ***(2008) 2 SCC 507***, and more particularly paragraph No. 24 thereof. Learned counsel, therefore, urged that in view of the aforesaid decisions rendered by the Hon'ble Supreme Court, it was not open for the learned Single Judge to grant relief to the writ petitioner while disposing of the petition. Learned counsel, therefore, urged that the present appeal be allowed and the impugned order passed by the learned Single Judge be set aside.

10. On the other hand, Mr. Mithilesh Kumar, learned counsel appearing on behalf of the private respondent has opposed the present appeal. Learned counsel would mainly contend that as per provisions contained in Section 15 of the Bihar Land Disputes Resolution Act, 2009 (hereinafter referred



to as the 'Act of 2009'), once the appeal is filed by the appellant, the order passed by the competent authority is automatically stayed. Learned counsel referred the aforesaid provision in support of the said contention. Learned counsel for the private respondent, thereafter, submitted that in the present case, the learned Single Judge disposed of the writ petition by relegating the writ petitioner before the appellate authority and, therefore, now, when the writ petitioner has filed the appeal before the appellate authority, the impugned order passed by the D.C.L.R. is required to be stayed and, therefore, the learned Single Judge has not committed any error while passing the impugned order. Learned counsel, therefore, urged that this appeal be dismissed.

11. Learned counsel appearing on behalf of the respondent authorities has also supported the submissions canvassed by the private respondent. Learned counsel submits that this appeal may not be entertained.

12. We have considered the submissions canvassed by learned counsels for the parties, perused the materials placed on record and the decisions upon which the reliance is placed by learned counsels for the parties.

13. From the records, it would emerge that the present



respondent No. 6 filed the captioned writ petition challenging the order dated 10.08.2024, passed by the Deputy Collector Lands Reforms, whereby, the said authority has held that the writ petitioner has illegally occupied the land in question by constructing the cattle shed. The D.C.L.R. also directed the concerned Circle Officer to take necessary action to ensure that the possession of the land in question be handed over to the concerned private respondent. It further transpires that the learned Single Judge did not issue notice to the private respondent in the writ petition/present appellant and the writ petition came to be disposed of on the ground that the original writ petitioner has efficacious alternative remedy of statutory appeal before the Divisional Commissioner as provided under Section 14 of the Act of 2009.

14. It is required to be observed, at this stage, that the original writ petitioner has not challenged the impugned order passed by the learned Single Judge and, in fact, the original writ petitioner has already preferred the appeal before the appellate authority i.e., the Divisional Commissioner. However, at this stage, it is further required to be observed that though the learned Single Judge has disposed of the writ petition by granting liberty to the petitioner to file appeal before the



Divisional Commissioner within the stipulated time, the learned Single Judge has further observed that the order dated 10.08.2024, passed by the D.C.L.R., shall not be given effect to till the final disposal of the appeal.

15. Therefore, the limited question before us in the present appeal is “whether the learned Single Judge could have passed the order of grant of relief in favour of the writ petitioner while relegating him to the appellate authority or not?”

16. With a view to decide the aforesaid question, at this Stage, we would like to refer the decision rendered in the case of *Ajay Mohan (supra)*, whereby the Hon’ble Supreme Court has observed in paragraph No. 24 as under :-

“24. The order of the City Civil Court dated 13-10-2006 may be bad but then it was required to be set aside by the court of appeal. An appeal had been preferred by the appellants thereagainst but the same had been withdrawn. The said order dated 13-10-2006, therefore, attained finality. The High Court, while allowing the appellant to withdraw the appeal, no doubt, passed an order of status quo for a period of two weeks in terms of its order dated 23-11-2006 but no reason therefor had been assigned. It ex facie had no jurisdiction to pass such an interim order. Once the appeal was permitted to be withdrawn, the Court became functus officio. It did not hear the parties on merit. It had not assigned any



reason in support thereof. Ordinarily, a court, while allowing a party to withdraw an appeal, could not have granted a further relief. ”

17. From the aforesaid observation made by the Hon’ble Supreme Court, it can be said that once the appeal was permitted to be withdrawn, the Court became *functus officio* and the Court had no jurisdiction to pass such an interim order.

18. In the case of ***Hotel Queen Road Private Limited*** (*supra*), the Hon’ble Supreme Court has observed in paragraph No. 16, as under :-

“16. In view of the aforestated judgments, it is very clear that if a petition is not maintainable and is ultimately withdrawn, the court should not continue interim relief for a period beyond withdrawal of the writ petition. However, the aforestated observation would not apply to a case where the matter is heard on merits and after considering the facts of the case the court permits withdrawal of the case. In such a case, the court is at liberty to extend the interim relief or can grant interim relief for a limited period after recording reasons for the same.”

19. From the aforesaid observation made by the Hon’ble Supreme Court, it is clear that if a petition is not maintainable and is ultimately withdrawn, the Court should not



continue interim relief for a period beyond withdrawal of the writ petition.

20. Keeping in view the aforesaid decisions rendered by the Hon'ble Supreme Court, if the facts of the present case as discussed herein above are examined, it transpires that while not entertaining the petition filed by the writ petitioner on the ground of availability of efficacious alternative remedy, the learned Single Judge has observed that the order passed by the D.C.L.R. shall not be given effect to till final disposal of the appeal. Further, while granting such relief in favour of the writ petitioner, the learned Single Judge did not assign any reason.

21. We are also of the view that the reliance placed by learned counsel for the respondent No. 6/original writ petitioner upon Section 15 of the Act of 2009, is misconceived.

22. In view of the aforesaid facts and circumstances of the present case, we are of the view that the learned Single Judge has committed an error by granting interim relief in favour of the writ petitioner till final disposal of the appeal and, therefore, the impugned order is required to be set aside. Accordingly, the same is set aside.

23. It is pertinent to note, at this stage, that the original writ petitioner has already filed an appeal i.e., Land



Dispute Appeal Case No. 27 of 2024, which is pending before the Divisional Commissioner, Darbhanga.

24. We, hereby, direct that the present appellant shall appear before the appellate authority within a period of one week from today and the appellate authority shall decide the appeal filed by the original writ petitioner within a period of eight weeks from the date of receipt of this order.

25. The appeal stands allowed.

26. Interlocutory Application(s), if any, shall also stand disposed of accordingly.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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