
(2020) 02 PAT CK 0242

In the Patna High Court

Case No : Letters Patent Appeal No. 586 Of 2019, Civil Writ Jurisdiction Case No. 18243 Of 2016

Digvijay Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 18-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0242

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Ajay Kumar Singh, Md. Khurshid Alam

Final Decision : Dismissed

Judgement

Heard learned counsel for the appellant and learned counsel for the respondents.

The appeal is reported to be delayed by 41 days. We have considered the affidavit filed in support of the delay condonation application and we find that sufficient cause has been shown to condone the delay in filing the appeal. The delay is condoned and the appeal shall be treated to be within time.

I.A. No.1 of 2019 stands allowed accordingly.

Heard the parties.

Aggrieved by the judgment and order dated 27.20.2019, passed in C.W.J.C. No.18243 of 2016 passed by learned Single Judge, appellants have preferred this letters patent appeal.

Appellants had filed an application before the Circle Officer, Udwanthnagar Block, Bhojpur for mutation in respect of land in question but same was refused by the Circle Officer by order dated 29.11.2008 on ground of pendency of title suit between the parties and the mutation proceeding were kept in abeyance till decision of title suit.

Aggrieved by the refusal of Circle Officer for passing any order in mutation proceeding and keeping the matter in abeyance till conclusion of title suit, appellants preferred appeal before the Bihar Land Tribunal on the ground that there was no such requirement of law before enactment of Bihar Land Mutation Act, 2011 as such provisions of present enactment was not applicable and circle officer ought to have decided the mutation application of the appellants. It is relevant to note here that under the new enactment, specific provision has been made that when a title suit in respect of same subject matter is pending, mutation cases should not be entertained and tribunal dismissed the appeal of appellants, against which appellants preferred present writ petition which was dismissed by the impugned order and while dismissing the writ petition, the learned Single Judge has referred paragraph 8 of order passed by the Tribunal for dismissing the appeal of the appellants which is reproduced as hereunder:-

"8. Considering the detailed facts disclosed in the counter affidavit of Opposite party no.5 and the reply to it filed on behalf of the petitioners, I find that the order was passed by the Circle Officer in Mutation case considering that the several issues are involved in this matter which not only relates to the possession of the parties, but the question of title is also involved. So far the earlier mutation order passed in favour of the petitioners with respect to Mouja Ekauna is concerned that also become nonexistent in the light of the order passed by the Hon'ble High court in one of the writ application, where it was held that in view of the order passed by the Hon'ble High court in CWJC No. 4455 of 1993 dated 18.9.1996 the original order passed by the Director Consolidation was set aside because all these orders were passed on the basis of ex-parte decree in Title Suit no. 147 of 1972 which was subsequently set aside by the Hon'ble High court in the Misc. case filed by the father of Opposite party no.6 for setting aside the ex-parte decree passed in Title Suit no. 147 of 1972. Those orders automatically became nonexistent because very foundation of these orders were illegal.

The Circle Officer has passed a well considered order whereby he has decided not to proceed in the matter till the final disposal of Title suit No. 163 of 1999. I do not find any merit in this application. It is accordingly dismissed."

After hearing the learned counsel for the appellants and perusing the order passed by learned Single Judge, this Court does not find any error or infirmity in the order passed by learned Single Judge requiring any interference by this Court, accordingly, present appeal is dismissed as being devoid of any merit.