

(2016) 10 PAT CK 0003

In the Patna High Court

Case No : Letters Patent Appeal No. 1184 of 2015. Arising out of Civil Writ Jurisdiction Case No. 13884 of 2010 Along with Interlocutory Application No. 5018 of 2015

Md. Tanvir

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 21-10-2016

Acts Referred:

Citation : (2017) 1 BBCJ 162

Hon'ble Judges : Hemant Gupta and Mr. Ahsanuddin Amanullah, JJ.

Bench : Division Bench

Advocate : Mr. Ajay Kr. Singh, Mr. Raj Kumar and Mr. Rajnish Kumar, Advocates, for the Appellants; None, for the Respondents

Final Decision : Dismissed

Judgement

Mr. Hemant Gupta, J. (Oral)—Re.: Interlocutory Application No.5018 of 2015

The application is for condonation of delay of 312 days in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.1184 of 2015

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench on 14th February, 2012 whereby the writ application was dismissed with liberty to the appellants to seek remedy of revision.

2. The brief facts are that in an appeal filed by Md. Manjoor Alam and others,

private respondents in the writ application, the settlement in favour of Mahendra Narayan Jha was set aside and Manjoor Alam and others were ordered to be settled on the land in question. After the said order was passed, the appellants filed an application before the Collector, Katihar claiming possession over the land in question. The appellants prayed the following reliefs:-

"It is, therefore, prayed that your honour be pleased to admit the appeal, call for the record of Misc. Ceiling Case No.14 of 2009-10 from the office of the Additional Collector Ceiling and after due enquiry be pleased to set aside the impugned order and order to settle the land as per possession of these appellants and for this the appellants shall ever pray."

3. The Additional Collector recommended to the Collector to consider the claim of the appellants sympathetically for settlement of land. Such recommendations were not accepted by the Collector on 2nd of July, 2010. It is the said order which was challenged by the appellants before the learned Single Bench and the writ application dismissed.

4. The appellants claim to be in possession of the land which was earlier settled in favour of Mahendra Narayan Jha and later by virtue of an order of the Additional Collector in favour of Md. Manjoor Alam and others. The appellants could not explain as to how they entered into possession of land, thus they have to be treated as person in unauthorized possession. The appellants could not point out any Statute that a person in an unauthorized possession is entitled to settlement over the land which vested with the State after being declared as surplus. Since the entire claim of the appellants is based upon the unauthorized possession, which recommendation has not been accepted by the Collector, we do not find that any interference was called for in the writ application and also in the present Letters Patent Appeal.

5. Consequently, the Letters Patent Appeal is dismissed. However, it shall be open to the appellants to seek such other remedy as may be available to them in accordance with law.