

(2011) 05 PAT CK 0004

In the Patna High Court

Case No : Letters Patent Appeal No. 947 of 2002

Paras Nath Rai and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 02-05-2011

Acts Referred:

Citation : (2011) 59 BLJR 1499

Hon'ble Judges : T. Meena Kumari, J;Akhilesh Chandra, J

Bench : Division Bench

Advocate : Rama Kant Sharma, Rajesh Kumar and Manish Kumar, for the Appellant; K.P. Gupta, SC 16 and Binod Kumar, AC to SC 16, for the Respondent

Final Decision : Dismissed

Judgement

T. Meena Kumari and Akhilesh Chandra, JJ.—The present Letters Patent Appeal is filed against the order passed by the learned Single Judge in CWJC No. 1851 of 2000 dated 09th August, 2002 wherein the learned single Judge has chosen to dismiss the writ petition on the ground that the appellate authority as well as the revisional authority recorded the findings and had refused to interfere with the relief sought by the Appellants herein.

2. The case of the Appellants is that Respondent No. 5 in the writ petition, Umrawati Devi, is not the daughter of Dhyani Rai.

3. It is contended that the lands in dispute belonged to the share of the Appellants herein. But, however, it has been recorded by the learned single Judge that on earlier occasion Partition Suit has been filed by the inter party wherein the Appellants herein were also a minor and the said Dhyani Rai was also a party to the suit. The said suit, filed by the Appellants herein as the minors, wherein it was recorded that Umrawati Devi was the daughter of Dhyani Rai, was dismissed. Against the said order Title Appeal No. 30 of 1968 has been filed and the same was dismissed on two grounds; non-prosecution of the appeal by the Appellants and the appeal has been abated. When the matter came up for

hearing under the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, the revisional / appellate authorities have taken note of the judgment rendered by the earlier courts and chosen to dismiss the same. However, the learned single Judge, while dismissing the writ petition, has also noted that the appellate / revisional authorities have dismissed the appeal giving concurrent findings in favour of Respondent No. 5 in the writ petition. We are not inclined to interfere with the order passed by the learned single Judge.

4. However, the learned Counsel for the Appellants has sought liberty of this Court to raise the objections, raised in this appeal, before appropriate Forum, if the party so chose, as the litigation between the parties is civil in nature. Regarding the submissions, we are of the opinion that the liberty can be granted to the Appellants to raise objections, raised herein, before the appropriate Forum where the matter is pending. Such objection, if any raised before the authority, will be decided in accordance with law.

5. Accordingly, this Letters Patent Appeal is dismissed, with the above observations.