(2019) 10 PAT CK 0011

In the Patna High Court

Case No : Letters Patent Appeal No. 1761 Of 2018 In Civil Writ Jurisdiction Case No. 3509 Of 2018

Raj Kumar Ram And Ors — APPELLANT

Vs

Collector Purnea And Ors — RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Citation : (2019) 10 PAT CK 0011

Hon'ble Judges : Amreshwar Pratap Sahi, CJ;Ashutosh Kumar, J

Bench : Division Bench

Advocate : Ajit Kumar Singh, Nutan Sahay

Final Decision : Dismissed

Judgement

Re: I.A. No. 9618 of 2018

1. Heard Shri Ajit Kumar Singh, learned counsel for the appellants and Smt. Nutan Sahay, Assistant Counsel to Additional Advocate General No. 12 for the State.

2. The appeal is reported to be delayed by 23 days.

3. 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.

4. I.A. No. 9618 of 2018 stands allowed accordingly.

Re: L.P.A. No. 1761 of 2018

The learned Single Judge has dismissed the writ petition of the appellants after having traced the entire litigative battle in respect of certain land that was declared surplus under the ceiling proceedings by the State of Bihar.

2. The facts as indicated in the impugned judgment appear to be that certain land was declared surplus under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. These proceedings against the original tenure-holder was contested before the A.D.M. (Ceiling) and then it ultimately travelled up to Ceiling Revision No. 65 of 2003 filed before the Board of Revenue. The Board of Revenue vide order dated 22nd of May, 2004 ultimately allowed the claim of one Bisheshwar Prasad Das who had filed the said revision and the land was ultimately excluded from the ceiling proceedings.

3. In the meantime the land, which had been declared surplus, came to be settled in favour of settlees including the appellants. Some of the settlees challenged the order of the Board of Revenue referred to above in C.W.J.C. No. 8665 of 2004, but the said writ petition came to be dismissed on 2nd March, 2005 and the order dated 22nd May, 2004 passed by the Board of Revenue was affirmed.

4. Thereafter, the proceedings upon the order of the Board of Revenue were continued, and then in the light of the judgment of the Board of Revenue, a fresh notification was issued in respect of the land under the provisions of the said Act.

5. As a consequence thereof, the mutation of the appellants also came to be cancelled. The case of the State is that notices had been issued to the appellants as well, which is being denied by the appellants. It is also urged on behalf of the appellants that the Circle Officer had no authority to issue any such notice.

6. We have considered the submissions raised and what we find is that the order dated 22nd of May, 2004 became final. The said order has nowhere been questioned by the appellants. The order dated 22nd May, 2004 therefore attaches finality to the proceedings and all consequential actions are merely in the nature of an execution of the said order. The appellants, whatever rights they had, perished with the passing of the final order dated 22nd May, 2004. In the absence of any surviving rights, no case was made out for interference and the learned Single Judge has rightly dismissed the writ petition.

7. The appeal also lacks merit and is accordingly dismissed.

