

(2008) 07 PAT CK 0195
In the Patna High Court
Case No : LPA No. 531 of 2001

Ram Pravesh Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 09-07-2008

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 44 Rule 1

Citation : (2008) 4 PLJR 71

Hon'ble Judges : J.N. Singh, J; Barin Ghosh, J

Bench : Division Bench

Advocate : Yogendra Kumar Singh, for the Appellant; Shashi Bhushan Kumar for the State, for the Respondent

Final Decision : Allowed

Judgement

Barin Ghosh & J.N. Singh, JJ.—The appellant filed Title Suit No. 130 of 1994/69 of 1996 against the State of Bihar and another. By a judgment and order dated 27th July, 2000 the suit was dismissed on contest with cost. Being aggrieved thereby the appellant filed an appeal. In the appeal he filed an Interlocutory application wherein it was stated that he is an indigent person and was declared so by the court below and accordingly had no obligation to pay court fee. In the application he had also stated that the appellant had not ceased to be an indigent person. In the application prayer was made for waiving the obligation of the appellant for payment of required court fee. This application has been dismissed by the order under appeal and hence the present Letters Patent Appeal. The said application was not contested. It does not appear from the order under appeal that the Government Pleader or the respondents in the application disputed the statements as were made in the said application. There is no finding that the court below did not declare appellant as indigent person. In the circumstances, in terms of Rule 1 of Order 44 of the CPC there was no necessity of further enquiry as to whether applicant is an indigent person or not. The application in the circumstances ought to have had been allowed.

2. In the circumstances, we allow the appeal, set aside order dated 12.4.2001 passed in F.A. No. 608 of 2000, restore the appeal filed by the appellant and allow the interlocutory application of the appellant waiving his obligation to file court fee. Let the appeal be heard.