
(2012) 08 PAT CK 0113

In the Patna High Court

Case No : Letters Patent Appeal No. 464 of 2011 In Civil Writ Jurisdiction Case
No. 1394 of 2006

Sk. Kalu

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 02-08-2012

Acts Referred:

Citation : (2013) 4 BBCJ 289

Hon'ble Judges : R.M. Doshit, CJ. and Ahsanuddin Amanullah, J.

Bench : Division Bench

Advocate : Mr. P.K. Jaipurkar and Mr. Anshuman Jaipurkar, Advocates, for the Appellant; Mr. Rajeev Kumar Singh, GP 15 and Mr. Sanjeev Kumar Singh, AC to GP 15, for the Respondent-State; Mr. Jitendra Kumar Pandey, Advocate, for the Respondent Nos. 5 & 6

Final Decision : Partly Allowed

Judgement

1. Feeling aggrieved by the judgment and order dated 2nd February 2011 passed by the learned single Judge in CWJC No. 1394 of 2006, the writ petitioner has preferred this Appeal under Clause 10 of the Letters Patent.

2. The respondent nos. 5 and 6, son and wife of one Sk. Illiash, approached the Sub Divisional Officer-cum-Competent Authority under the Minimum Wages Act, 1948 (hereinafter referred to as "the Act") for recovery of unpaid wages in Minimum Wages Case No. 06/2002 filed under Section 20(2) of the Act. According to the claimants, the aforesaid Sk. Illiash was employed by the appellant Sk. Kalu @ Sk. Kalimuddin for more than six months during March 2000 to September 2000 but was not paid the wages. Pursuant to the said complaint, the competent authority, under order dated 30th June 2004, directed the appellant to pay the outstanding wages of Rs. 7,000/- and five times the fine, i.e. Rs. 35,000/-, totalling to Rs. 42,000/- to the said Sk. Illiash.

3. The said order was challenged by the appellant before the appellate authority,

the Additional Collector, Katihar in Minimum Wages Appeal Case No. 51/2004. The appellate authority, under order dated 14th November 2005, allowed the appeal partially. The appellate authority confirmed the order of payment of wages of Rs. 7,000/-. The appellate authority did not make any order in respect of fine of Rs. 35,000/- imposed by the competent authority. However, the appellate authority held that the claimants and the said Sk. Illiash were residing on the land of the appellant for around 10 to 12 years. The claimants had thus become the owner of the land and issued direction to the Circle Officer to issue 'residential purcha' in favour of the claimants and Sk. Illiash.

4. Feeling aggrieved by the appellate order, the appellant filed the above CWJC No. 1394 of 2006 under Article 226 of the Constitution. Before the learned single Judge, the appellant raised the issue of limitation for the first time and submitted that the claim made before the competent authority under Section 20(2) of the Act was time-barred and in absence of the application for condonation of delay, the same could not have been entertained. The learned single Judge did not allow the appellant to raise the plea of limitation for the first time before the High Court and dismissed the writ petition. Therefore, this Appeal.

5. Learned advocate Mr. P.K. Jaipuriyar has appeared for the appellant. He has reiterated the plea of limitation. He has also submitted that the appellate authority has directed the Circle Officer to issue residential purcha in favour of the claimants without the authority of law. Learned advocate Mr. Jitendra Kumar Pandey has appeared for the respondent nos. 5 and 6. He has contested the Appeal.

6. We are of the opinion that the learned single Judge was justified in rejecting the plea of bar of limitation raised for the first time before the High Court. However, it appears that the above-referred direction issued by the appellate authority was not brought to the notice of the learned single Judge. We hold that the order of the lower appellate authority insofar as it has held that the claimants had become owner of the land and, insofar as he has issued direction to the Circle Officer to make measurement of the land in question and to issue 'residential purcha' in favour of the claimants were totally uncalled for and were made without jurisdiction.

7. The Appeal is partly allowed. The observations made by the Additional Collector, Katihar and the appellate authority in respect of the passing over of the title of the land in question to the claimants is set aside. The direction issued to the Circle Officer, Manihari to make measurement of the land in question and to issue residential purcha in favour of the claimants is also set aside. The order of payment of arrears of wages of Rs. 7,000/- is confirmed.

8. Learned advocate Mr. P.K. Jaipuriyar appearing for the appellant has candidly admitted that till date the appellant has not paid the aforesaid sum of Rs. 7,000/-, the amount of arrears of wages. We are at pains to note that although the wages relate to the year 2000; the order of the competent authority was

made on 30th June 2004; after more than 8 years from the date of the order, although no authority or court has stayed the operation of the order, the appellant has not paid the arrears of wages. We are, therefore, of the opinion that the appellant is liable to pay the amount of arrears of wages with interest upto date. In lieu of interest on the said amount of wages, we direct that the appellant will pay an additional amount of Rs. 8,000/- to the aforesaid Sk. Illiash. The appellant will pay the aforesaid sum of Rs. 7,000/- and the aforesaid amount of interest (total Rs. 15,000/-) to the employee Sk. Illiash within three months from today.

9. In the event, the appellant fails to pay the aforesaid sum of Rs. 15,000/- (Fifteen thousand) within three months as directed, the employee Sk. Illiash will be entitled to recover the same as arrears of land revenue.

10. The parties will bear their own costs.

11. Registry will issue the writ forthwith.