

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1314 of 2019

In

Civil Writ Jurisdiction Case No.17005 of 2019

Rama Prasad Singh,

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Revenue Department, Government of Bihar, Patna.
2. The Collector, Rohtas.
3. The Additional Collector, Rohtas.
4. The Land Reform Deputy Collector, Rohtas.
5. The Sub-Divisional Officer, Rohtas.
6. The Anchal Adhikari, Kargahar, P.S. - Kochas, District - Rohtas.
7. Kamala Kuer,

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vijay Shankar Tiwary, Adv.
For the State : Mr. Shailendra Kumar Trivedi Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 07-04-2023

Re. I.A. No. 1 of 2019 :-

This interlocutory application has been filed seeking condonation of delay of eight (8) days in filing the present appeal.

2. For the reasons stated in the aforesaid



application, the delay in filing the present appeal is, hereby, condoned.

3. The I.A. No. 1 of 2019 stands allowed.

Re. L.P.A. No. 1314 of 2019 :-

We have heard Mr. Vijay Shankar Tiwary for the appellant and Mr. Shailendra Kumar Trivedi for the State.

2. The appellant was an *ex-army man* in whose favour a proposal was initiated for settlement of *gairmazarua aam* land for the services rendered by him for the country.

3. When nothing was being done, the appellant approached the competent authority, which rejected his petition. The appellant, thereafter, challenged the same before the Collector and thereafter before the Commissioner, but to no avail. All the authorities found that the land in question, which the appellant wanted to get settled in his name for price, was no doubt a public land, but a water-tank and a



temple stands over that land.

4. In that view of the matter, when a water-body, which is used by the public in general, and a temple, which is accessible to all the devotees, stand on the land, even though it is *gairmazarua aam* land, the same cannot be settled in anyone's favour, much less the appellant.

5. We do not have any document before us to rely on the averment of the appellant that the proposal with respect to the same plot of land was initiated in his favour.

6. It is the contention of the appellant that if at all, the said public land had a water-tank and a temple over it, how was it that that land later stood corrected in the name of one Kamla Kuer, who has been impleaded in this appeal as respondent No. 7.

7. We find that aforesaid Kamla Kuer was also impleaded as party in the writ petition, but she was never noticed; perhaps for the reason that the appellant



as a writ-petitioner had only challenged the order passed by the Commissioner, refusing to entertain his plea of getting the land in question settled in his favour. It is, thus, only an oral statement of the appellant that the land which he wanted has now fallen in the kitty of respondent No. 7, even though it has a public water-tank and a temple.

8. We cannot, without any evidence in that regard, accept such statement *ipso facto*.

9. We do not find any reason to differ with the order passed by the learned Single Judge.

10. The appeal is, accordingly, dismissed.

11. The appellant is left to bear his own cost.

(Ashutosh Kumar, J)

(Harish Kumar, J)

Praveen-II/-

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CAV DATE	N/A
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