

# SUPREME COURT OF INDIA

State of Bihar

Vs.

Abhay Chand Bothra

(Dr.A.S. Anand, R.C. Lahoti and S.N. Variava JJ.)

05.05.2000

## ORDER

**DR. A.S. ANAND, C.J.I.**

1. Leave granted.

2. It appears that respondent filed a writ application, being CWJC No. 4615/1994 in the High Court of Patna seeking directions to Anchal Adhikari to issue rent receipts for land, measuring 49 decimals situated in Mouza-Chhatapur and comprising in Khata No. 3416(old), Kheera (Khasra) No. 619 (new). It was the case of the writ petitioner that jamabandi had already been created and rent @ Rs. 25/- per acre had been fixed from the date of abolition of zamindari. The grievance projected before the High Court appears to have been that despite the creation of jamabandi and fixation of rent @ Rs. 25/ - per acre, rent receipts were not being issued to the writ petitioner by Anchal Adhikari. Notice was issued in the writ application to the State of Bihar and others. Despite service of notice, nobody appeared before the learned Single Judge. No counter affidavit was also filed, as is apparent from the order of the learned Single Judge, dated 15.2.1995. The learned Single Judge, accordingly, disposed of the writ application by accepting the averments made in the application and directed the Anchal Adhikari to issue rent receipts in terms of the earlier order dated 20.11.1991, in favour of the writ petitioner. The State was aggrieved of the order of the learned Single Judge and filed a review application, being Civil Review No. 218 of 1995. That application, however, came to be dismissed on 12th March, 1996. The State, thereafter, filed a Letters Patent Appeal, being LPA No. 245/97. Since, the appeal was filed on 24th February, 1997, putting in issue the order made in Civil Writ Application, dated 15.2.1995, the State also filed an application seeking condonation of delay of about two years in filing the Letters Patent Appeal. The Division Bench of the High Court recorded that they were not satisfied with the explanation for the delay in filing LPA and consequently, application seeking condonation of delay was rejected and Letters Patent Appeal was dismissed as barred by time.

3. The order of the Division Bench has been put in issue before us through this appeal by special leave.

4. On 14th December, 1998, this Court, while issuing notice for final disposal of the SLP and directing an ad-interim stay of the impugned order, condoned the delay in filing of the SLP in view of "special facts and circumstances and, in particular, the statements made in the affidavit filed before the High Court." Subsequently, on 4th January, 2000, this Court made the following order :-

The Letters Patent Appeal has been dismissed by the Division Bench of the High Court as barred by time. We have perused the application filed in the High Court under Section 5 of the Limitation Act seeking condonation of delay. It appears that the departmental authorities were deliberately trying to work against the interest of the Revenue. Mr. B.B. Singh, learned Counsel appearing for the State submits that against the Deputy Collector, Land Reforms, Birpur who had committed other irregularities also, proceedings were instituted. He refers to Page E of the list of dates and events in that behalf. He, however, is unable to tell us as to the nature of the proceedings or action, if any, has been taken against the Deputy Collector, Land Reforms, Birpur. Mr. B.B. Singh seeks six weeks' time to furnish the information.

We have pointed to Mr. Singh that if no action has been taken against the Deputy Collector, Land Reforms, Birpur till date, an adverse inference may have to be drawn against the State.

5. We are informed by Mr. B.B. Singh, learned Counsel appearing for the State that action has since been initiated against, the concerned official and even a First Information Report has been filed and investigation is in progress.

6. Keeping in view various factors mentioned by us above, in our opinion, it would be just, fair and appropriate, that the writ application filed by the respondent should be decided on merits, as apparently, neither the learned Single Judge nor the Division Bench has dealt with the merits of the case.

7. We, therefore, without expressing any opinion on the merits of the controversy, or in respect of the proceedings which have been initiated by the State against the official concerned, consider it appropriate to allow this appeal and remand the writ petition to the learned Single Judge of the High Court for its disposal in accordance with law. The parties shall be at liberty to file counter affidavit, rejoinder and additional documents in the writ application before the learned Single Judge. The learned Single Judge shall decide the writ application on its own merits, after hearing the parties, uninfluenced by any observations made by us in this order.

8. Mr. B.B. Singh, learned Counsel appearing for the State of Bihar has drawn our attention to an order made by this Court in Civil Appeal No. 1525 of 1987, decided on 11th July, 1994. It is submitted that this order has great relevance to the case. We express no opinion. It is open to him to bring that order to the notice of the learned Single Judge hearing the writ petition in the High Court pursuant to the remand order.

9. The appeal is allowed and the case is remanded in the manner, noticed above. No costs.

10. We request the High Court to dispose of the writ application expeditiously.

11. Learned Counsel for the parties are directed to cause the presence of their respective clients before the Registrar (Judl.) of the Patna High Court on 3rd July, 2000 for further directions.