

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.711 of 2025
In
Civil Writ Jurisdiction Case No.8186 of 2023

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Parshuram Rai, Son of Late Mahesh Rai, Resident of Hanuman Nagar, P.O.-
Dharharwa, P.S. Aurai, District- Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, Revenue & Land Reform Department, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub-Divisional Officer, Muzaffarpur.
4. The Circle Officer, Aurai, District Muzaffarpur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Surendra Kishore Thakur, Advocate
Mr. Subodh Kumar, Advocate
For the Respondent/s : Mr. Arun Kumar Bhagat, AC to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-08-2025

The present appeal is listed under the caption “For Orders (On Office Notes)”.

2. Learned counsel for the appellant submits that office has pointed out certain defects. However, the said defects be ignored, and as the matter is urgent, the main matter be heard today itself.

3. In view of the aforesaid submission, the defects pointed out by the office are ignored.



Re: I.A. No. 1 of 2025

4. The present Interlocutory Application has been filed under Section 5 of the Limitation Act for condonation of delay of 412 days caused in preferring the Letters Patent Appeal.

5. Heard Mr. Surendra Kishore Thakur, learned counsel appearing on behalf of the applicant/appellant and Mr. Arun Kumar Bhagat, learned counsel for the respondent-State.

6. We have gone through the averments made in this Interlocutory Application and also considered the submissions canvassed by learned Advocates appearing for the parties.

7. We are of the view that the applicant/appellant has shown sufficient cause for not preferring the Letters Patent Appeal within the time of limitation.

8. Accordingly, delay of 412 days caused in preferring the Letters Patent Appeal is hereby condoned.

9. Interlocutory Application No. 1 of 2025 stands allowed.

Re: LPA No. 711 of 2025

10. The present Letters Patent Appeal has been filed under provisions of Clause 10 of the Letters Patent of the Patna High Court Rules against the order dated 25.04.2024 rendered



by learned Single Judge in CWJC No. 8186 of 2023, whereby the learned Single Judge has disposed of the writ petition filed by the present appellant/original petitioner by observing that the application submitted by the appellant/original petitioner under the Bihar Privileged Persons Homestead Tenancy Act shall be decided by the concerned authorities by 15th June, 2024 and appellant/original petitioner shall not be removed till 30th June, 2024.

11. Heard Mr. Surendra Kishore Thakur, learned counsel appearing on behalf of the appellant/original petitioner and Mr. Arun Kumar Bhagat, learned counsel for the respondent-State.

12. Learned counsel for the appellant/original petitioner would mainly contend that learned Single Judge gave direction to the respondent authority to decide the representation/application of the appellant/original petitioner before 15th June, 2024, despite which no decision was taken by the respondent authority, and only on 31st May, 2025, the appellant/original petitioner was informed that his application was already rejected in the year 2020. However, copy of the said order has not been supplied to the appellant/original petitioner, despite which the appellant/original petitioner has filed the



appeal against the said order before the appellate authority, which is still pending. Learned counsel thereafter submitted that now recently, i.e., on yesterday, the appellant/original petitioner has received notice from the concerned respondent authority in which it has been stated that as the appellant/original petitioner is an encroacher, the encroachment will be removed. The appellant/original petitioner has, therefore, filed the urgent note, pursuant to which, now the matter has been listed.

13. Learned counsel submits that as per the provisions of the Bihar Privileged Persons Homestead Tenancy Act, the respondent authorities are required to give alternate land to the homeless persons. However, as the appeal filed by the appellant/original petitioner is pending before the appellate authority, the respondent authorities be restrained from removing the so-called encroachment made by the appellant/original petitioner. Learned counsel, therefore, urged that the impugned notice issued by the respondent be stayed till final disposal of the appeal filed by the appellant/original petitioner before the concerned appellate authority.

14. On the other hand, learned counsel appearing for the respondents has opposed the present appeal. Learned counsel would mainly submit that the learned Single Judge gave



protection to the appellant/original petitioner up to June, 2024 by directing the respondent authorities that appellant/original petitioner shall not be removed from the place in question up to 30th June, 2024. However, the appellant/original petitioner has subsequently challenged the said order after a delay of 412 days. It is further submitted that if the appellant/original petitioner was having any grievance with regard to the non-consideration of his representation/application, it was always open for the appellant/original petitioner to file application under the provisions of the Contempt of Courts Act, 1971 before the concerned learned Single Judge. However, as the appellant/original petitioner, who is an encroacher and is in possession of the land in question, did not file any application before this Court, and now when the respondents have pointed out to the appellant/original petitioner that his representation/application was rejected long back in the year 2020, he has filed the present appeal. It is further submitted that it is not in dispute that the appellant/original petitioner is an encroacher and now only request of the appellant/original petitioner is that alternate land should be provided to him. Learned counsel for the respondents, therefore, urged that present appeal may not be entertained.



15. We have considered the submissions canvassed by learned Advocates. We have also gone through the documents which are placed on record.

16. It transpires from the record that appellant/original petitioner filed the captioned petition before the learned Single Judge. Learned Single Judge has specifically given the finding that the appellant/original petitioner is an encroacher. However, the request was made on behalf of the appellant/original petitioner that his application, which has been filed by him under the Act for grant of land/alternate accommodation, is pending before the respondent authority and, therefore, learned Single Judge thought it fit to direct the concerned respondent to decide the said application by 15th June, 2024. Learned Single Judge has further granted protection to the appellant/original petitioner up to 30th June, 2024 by observing that the respondent authority shall not remove the appellant/original petitioner up to 30th June, 2024. Now, it is the grievance of the appellant/original petitioner that his application was not decided by the respondent authority and, therefore, he has waited for a period of 412 days for filing appeal. We are of the view that if the respondent had not decided the representation/application given by the appellant/original petitioner before 15th June, 2024, it was



always open for the appellant/original petitioner to file proceeding under the Contempt of Courts Act before the learned Single Judge who gave direction to the concerned respondent. However, the appellant/original petitioner waited for 412 days. Now, it is the contention of learned counsel for the appellant/original petitioner that recently on 31st May, 2025 the respondent has communicated to the appellant/original petitioner that his representation was already rejected in the year 2020. We are of the view that when the representation/application of the appellant/original petitioner was already rejected long back, appellant/original petitioner must be aware about the aforesaid aspect, despite which it appears that appellant/original petitioner did not disclose the same before the learned Single Judge when the learned Single Judge disposed of the petition with the aforesaid direction. Even otherwise, now it is the case of the appellant/original petitioner that he has already filed appeal before the appellate authority challenging the decision which has been taken by the respondent authority in the year 2020.

17. In view of the aforesaid facts and circumstances of the present case, when it is not in dispute that the appellant/original petitioner is an encroacher and is in



possession of the land without any authority of law since long and when the learned Single Judge already granted him protection up to 30th June, 2024, we are of the view that no further relief can be granted to the appellant/original petitioner in the present appeal. Learned Single Judge has not committed any error while passing the impugned order and, therefore, no interference is required in the present appeal.

18. Accordingly, Letters Patent Appeal stands dismissed.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

P.K.P./-

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CAV DATE	
Uploading Date	11.08.2025
Transmission Date	

