IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.157 of 2025
In
Civil Writ Jurisdiction Case No.14526 of 2023

==========

Meera Devi Mantri, Naugachia Block Matshjivi Sahyog Samiti Ltd. Naugachia, District- Bhagalpur.

... ... Appellant/s

Versus

1. The State of Bihar through the Secretary of the Department of Animal Husbandry and Fisheries Government of Bihar, Patna.
2. The Collector - cum- District Magistrate, Bhagalpur.
3. The Superintendent of Police, Bhagalpur.
4. The Sub Divisional Magistrate, Naugachia, District - Bhagalpur.
5. The District Fishery Officer - cum - Chief Executive Officer, Bhagalpur.
6. Ashok Kumar Singh S/o Late Ambika Prasad Singh
7. Hemant Kumar Sinha @ Hemant Kumar Singh, S/o Late Mathura Prasad Singh
8. Rabin Kumar Singh S/o Late Arun Kumar Singh
9. Raj Kumar Singh S/o Late Krishna Kumar Prasad Singh

All S.L. Nos. 6 to 9 are R/o Village-Pakra, P.S. Naugachia, District- Bhagalpur.

... ... Respondent/s

==========

Appearance :
For the Appellant/s : Mr. Baidya Nath Thakur, Advocate
For the Respondent/s : Mr. Addl. Advocate General (12)

==========

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-01-2026

WEB COPY

This Letters Patent Appeal is directed against the judgment and order dated 20.01.2025 passed in Civil Writ Jurisdiction Case No. 14526 of 2023. The writ petition was filed by the present Respondent Nos. 6 to 9 with the following prayer:-

> *"(i) An appropriate writ, direction or order be issued to restrain the respondents to interfere with the Jalkar namely, Kharnai Nadi, and Til Juggadhar either by issuing Parwana or any order or settlement as the Jalkars aforesaid are owned by the petitioners. Respondent No. 6 be also directed not to interfere with the physical possession of the said Jalkar in any manner.*
>
> *(ii) A further appropriate writ to quash the Parwana if any issued, for the year 2023-2024 in favour of the Respondent No. 6 (since the copies of alleged Parwana could not be made available despite R.T.I.) and further a direction be given to the Respondents authorities to provide protection to the petitioners in exercise of their fishing right over the Jalkars as aforesaid.*
>
> *(iii) A further direction be given to the Respondents to produce copy of Parwana if any, issued for the year 2023-2024 in favour of Respondent No. 6 and thereafter the said Parwana be quashed as the same is issued without jurisdiction over the Jalkars in question.*
>
> *(iv) Any other order, direction as this Hon'ble Court considers apt and appropriate in view of the facts and circumstances of the case."*

2. The learned Single Judge, after hearing the parties, observed as follows:-

> *"17. After hearing the learned counsel for the parties, the Court comes to a considered conclusion that the*

WEB COPY

State by applying its might is disturbing the petitioners. The authorities without challenging the judgment and decree passed in Title Suit No. 23 of 1965 are settling the Jalkars in favour of the private respondents continuously which amply demonstrates that the authorities do not have any regards for the orders passed by a Court of competent civil jurisdiction rather it gives an impression that the authorities throws the order of the Civil Court in dustbin, pleadings made at para 13 of the counter affidavit borders on contempt for the reason that the State of Bihar was a party in Title Suit No. 23 of 1965 and the judgment and decree in the said title suit was passed in the year 1973 on contest and the suit was decided in favour of the petitioners herein and the State of Bihar never challenged the said judgment and decree passed in Title Suit No. 23 of 1965 before any superior forum but then after 51 years a plea has been taken that the State Authorities are contemplating to file an appeal against the said judgment and decree passed in Title Suit No. 23 of 1965 which amply demonstrates the conduct of the respondent authorities, the less said the better it is.

18. After considering the submissions made on behalf of the parties, the Court directs the District Magistrate-cum-Collector, Bhagalpur and the District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur not to interfere with the private Jalkars of the petitioners till judgment and decree passed in Title Suit No. 23 of 1965 is in existence."

3. The main ground that has been taken for challenging the impugned judgment is that the appellant appeared in the writ proceeding through the counsel on 15.01.2025 and sought some time to file the counter-affidavit and, by order dated 15.01.2025, the case was directed to be posted on 18.01.2025. However, the

WEB COPY

case was not listed on 18.01.2025 and it was listed on 21.01.2025 on which date, the writ application was disposed of and the appellant did not get opportunity to file the counter-affidavit.

4. On perusal of the impugned judgment, we find that the submission made on behalf of the learned counsel for the appellant have been noted down by the learned Single Judge in Paragraph No.16 and, even if time was granted to the learned counsel for the appellant, she did not avail such opportunity and filed the counter-affidavit. It cannot be said that in any manner, the principle of natural justice has been flouted in this case. Moreover, the observation of the learned Single Judge in the concluding paragraph is that the District Magistrate-cum-Collector, Bhagalpur and the District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur shall not interfere with the private Jalkars of the petitioners till judgment and decree passed in Title Suit No. 23 of 1965 is in existence. When we posed a pertinent question to the learned counsel that whether judgment and decree has been challenged anywhere, the answer was in negative.

5. The scope of a Letters Patent Appeal is very limited and it cannot be greater that the original Writ Petition. The Appellant Court, while exercising intra-court appellate jurisdiction, cannot go beyond the pleadings, issues and materials

WEB COPY

which were placed before the learned Writ Court. At this juncture, it is pertinent to take note of the judgment passed by Hon'ble Supreme Court in **Netai Bag v. State of W.B.**, reported in **(2000) 8 SCC 262**, wherein it was observed as under:-

> *"13. .....The appeal before the Division Bench of the High Court and in this Court being in continuation of the original proceedings in the form of writ petition, cannot enlarge the scope of inquiry at this belated stage……."*

6. Further, the Hon'ble Supreme Court in **Devilal Modi v. STO**, reported in **1964 SCC OnLine SC 17**, has observed as under:-

> *"9. ..... the rule of constructive res judicata which is pleaded against him in the present appeal is in a sense a somewhat technical or artificial rule prescribed by the Code of Civil Procedure. This rule postulates that if a plea could have been taken by a party in a proceeding between him and his opponent, he would not be permitted to take that plea against the same party in a subsequent proceeding which is based on the same cause of action; but basically, even this view is founded on the same considerations of public policy, because if the doctrine of constructive res judicata is not applied to writ proceedings, it would be open to the party to take one proceeding after another and urge new grounds every time; and that plainly is inconsistent with considerations of public policy to which we have just referred."*

7. In view of the limited scope of interference in the Letters Patent Appeal, since we find no palpable error on the face

WEB COPY

of the records, there is no illegality in the impugned judgment and we are not accepting the contention of the learned counsel for the appellant that she had not been given any opportunity of hearing to file the counter-affidavit. We are not inclined to interfere with the impugned judgment.

8. Accordingly, the L.P.A. stands dismissed.

9. Pending application(s), if any, shall also stand disposed of.

(Sangam Kumar Sahoo, CJ)

(Sudhir Singh, J)

Sachin/Shailendr
a/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.01.2026
Transmission Date	

WEB COPY