

Yogendra Vs. State of Bihar and ors.

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Court : Patna

Decided On : Apr-17-1997

Judge : B.N. Agrawal, J.

Appeal No. : C.W.J.C. No. 12234 of 1995

Appellant : Yogendra

Respondent : State of Bihar and ors.

Judgement :

B.N. Agrawal, J.

1. Heard the parties.

2. This application has been filed for quashing order dated 6.11.95, passed by the Divisional Commissioner, Bhagalpur in land Encroachment Appeal No. 15 of 1993-94, contained in annexure-1, whereby objection of the petitioner in relation to maintainability of the appeal filed before the Divisional Commissioner has been rejected and it has been held that a revision was maintainable before the Divisional Commissioner against the order passed by the original authority.

3. Undisputedly, in the present case, the original authority was Ahchaladhikari and it passed a final order in the land encroachment proceeding in favour of the petitioner. The said order was assailed in appeal before the District Collector, who

by his order dated 8.11.1993, contained in annexure 9, dismissed the appeal, against the said order passed by the District Collector further appeal was preferred before the Divisional Commissioner, Bhagalpur, in which the petitioner took an objection that the same was not maintainable. The Divisional Commissioner in the impugned order has held that against the said order a revision was maintainable and consequently, he has directed that the appeal should be treated as a revision.

4. From bare perusal of the provisions of Section 11 of the Bihar Public Land Encroachment Act, 1956 (hereinafter to be referred to as 'Act'), it would appear that there is a provision of only one appeal and no second appeal does lie against the appellate order. The Act shows that there is no provision for revision against the appellate order, therefore, I am clearly of the view that the Divisional Commissioner was not justified in treating the appeal as revision and directing the same to be disposed of on merit.

5. Accordingly, this application is allowed, order contained in annexure 1 is hereby quashed and case No. 15 of 1993-94 filed by respondent No. 8, Suresh Prasad Singh before the Divisional Commissioner is dismissed as not maintainable.

6. This writ application is, thus, disposed of.