

CASE NO.:
Appeal (civil) 1838 of 2008

PETITIONER:
DEO NARAYAN YADAV

RESPONDENT:
MD. JAINUL ABEDDIN @ MD. JAINUL @ MD. JANUALUDDIN & ORS

DATE OF JUDGMENT: 07/03/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO. 1838 OF 2008
[Arising out of SLP(C) No.5246/2006]

Leave granted.

Heard the parties.

In view of the short order that we propose to pass, it may not be necessary to recite the entire facts leading to the filing of this appeal.

The whole controversy involved in this appeal is whether the order was passed under sub-Section (10) of Section 48E or under sub-Section (7) of Section 48E of the Bihar Tenancy Act, 1885. If the order is passed under sub-Section(10) of Section 48E, the same is not appealable under Section 48F. However, if the order is passed under sub-Section(7) and (8) of Section 48E, an appeal is maintainable under Section 48F.

The High Court although recorded the submission of the parties, it has not recorded any finding. At the same time,
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the respondent has challenged the order of the Deputy Collector, Land Reforms passed on 16/9/1997. An appeal has been preferred, namely, Bataidari Appeal No.24/98, which was dismissed on the ground of delay by the Collector, Madhepura by its order dated 9/5/2000.

We, accordingly, set aside the impugned order of the High Court. The delay in filing the Bataidari Appeal No.24/98 against the order dated 16/9/1997 passed by the Deputy Collector, Land Reforms is condoned. Bataidari Appeal No.24/98 is now restored to the file of the Collector. The Collector shall now take up the appeal and dispose of the appeal expeditiously on merit in accordance with law. We, however, clarify that we do not express any opinion on the merits of the case.

In terms of the aforesaid direction, the appeal is disposed of.