

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10488 of 1994

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Jagdish Prasad Yadav son of late Deni Yadav, resident of village Khajuria, P.S. Sidhwalia, District Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. The Member, Board of Revenue, Bihar, Patna
3. The Collector, Gopalganj
4. D.C.L.R., Gopalganj
5. Nageshwar Raut son of Madan Raut, resident of village Khajuria, P.S. Sidhwalia, District Gopalganj
6. Rabi Chand Prasad son of Ram Chhabila Prasad, resident of village Bhageli, P.S. Barauli, District Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anish Chandra Sinha, Advocate
For the Respondent/s : Mr. Mahesh Narayan Parbat, Sr. Advocate
Mr. Sanjay Kumar Jha, Advocate
For the State : Mr. Ajay, G.A.-12

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
ORAL JUDGMENT
Date: 02-07-2015

Learned counsel for the petitioner, Sri Anish Chandra

Sinha states that he has no instruction to press the writ petition, in the circumstances, petition may be dismissed for default.

2. The writ petition was filed on 29.11.1994 and admitted for hearing under order dated 15.11.1995. Matter having remained pending for about 20 years, I am not inclined to dismiss the petition for default and proceeded to peruse the impugned orders as also the averments made in the writ petition with the assistance of the counsel for the respondents.

3. It appears, petitioner is the pre-emptor. His claim for

pre-emption has been defeated by the Collector under the Act i.e. D.C.L.R., Gopalganj under order dated 15.07.1988, Annexure-3 holding that under the impugned sale deed two plots, bearing Nos. 5769 and 5904 were transferred in favour of Respondent no.5, but petitioner was the boundary raiyat of only one of the plots and pre-emption in part cannot be allowed. The appeal filed by the petitioner was, however, allowed by the Collector, Gopalganj under order dated 11.02.1992, Annexure-4 against which purchaser filed Revision Case No. 69 of 1993, which was heard by Member, Board of Revenue, Bihar, who allowed the revision under order dated 02.09.1994, Annexure-1 holding in paragraph 9 that it is well settled position in law that part pre-emption cannot be allowed as pre-emption over plot no. 5769 is not even claimed.

4. In view of the findings recorded by the D.C.L.R., Gopalganj and the Member, Board of Revenue that claim of the pre-emptor was only made in regard to the part of the lands transferred, the same has been rightly held not to be maintainable.

5. I see no merit in the writ petition, which is dismissed.

(V.N. Sinha, J.)

Arjun/-

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