

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11433 of 1994

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Guneshwar Prasad Sharma @ Guneshwar Sharma, Son of Late Bhogholi Sharma,
resident of village – Mahinath Nagar, Bhola Das Basa, Police Station – Beldaur,
District Khagaria

.... Petitioner/s

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna
3. The Additional Collector, Khagaria
4. The Deputy Collector Land Reforms, Gogri, Khagaria
5. Chandhary Sharma, son of Late Ishwar Sharma, resident of village – Mahinath Nagar, Bhola Das Tola, Police Station Beldaur, District Khagaria
6. Udho Prasad Sharma, son of Late Banwari Prasad Sharma, resident of village – Pirnagar, Police Station – Beldaur, District Khagaria

.... Respondent/s

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Appearance :

For the Petitioner/s : None
For the State : Mr. Din Bandhu Singh, GP-9
Mr. Santosh Kumar, AC to GP-9

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 09-07-2015

None appears for the petitioner and the private respondent- pre-emptor. Same was the position even on the last occasion i.e. 02.07.2015.

2. Counsel for the State is present and with his assistance, I have gone through the records as also the impugned Resolution passed by the Additional Member, Board of Revenue dated 30.07.1994 in Case No. 7 of 1993, Annexure-4 whereunder he has affirmed the order of the Appellate Authority i.e. Additional Collector, Khagaria dated 09.12.1992 passed in Pre-emption Case No. 14 of 1992-93, Annexure-3 and proceeded to set aside the order dated



23.07.1992 passed by DCLR, Gogari in Pre-emption Case No. 24 of 1991-92, Annexure-2 rejecting the claim of the pre-emptor on the ground that purchased land is homestead in nature. Aforesaid appellate, revisional orders have been assailed by the purchaser contending that from the report of the Circle Inspector, Beldaur dated 20.07.1992, Annexure-1 submitted to the Circle Officer, Beldaur, it will appear that the purchased land bearing plot no. 1082 appertaining to khata no. 109 of village Mahinath Nagar, Thana no. 135, measuring an area of 9 katha 1 dhur is a homestead land as over the same, purchaser has raised his hut, cattle shed six months earlier. Aforesaid report has been considered by the courts below, but they have refused to rely over the same as the hut, cattle shed over the plot in question has been raised six months prior to 20.07.1992 i.e. after purchase of the land. Purchaser purchased the lands for raising his cattle shed as the same is near the residential area of the village and after purchasing the same raised cattle shed over the purchased lands.

3. It is thus quite evident that the lands were purchased for the purpose of homestead and the appellate, revisional authority failed to appreciate the same. The order dated 09.12.1992, Annexure-3 and resolution dated 30.07.1994, Annexure-4 are, accordingly, set aside and the writ petition is allowed.

4. Before parting with this order, I would like to indicate

that the writ petition was filed on 22.12.1994 and admitted for hearing on 16.11.1995. Perusal of the order dated 16.11.1995 indicates that thereunder this Court observed that during the pendency of the writ petition, further proceedings pursuant to the impugned orders passed by the Additional Collector, Revisional Authority shall remain stayed.

(V.N. Sinha, J.)

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