IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10389 of 1993

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1. Surendra Singh
2. Kamakhaya Singh
3. Ranjeet Singh
4. Chandra Bhushan Singh, all sons of Sudama Singh
5. Yogendra Singh
6. Basista Nr. Singh
7. Kameshwar Prasad Singh
8. Dinbandhu Singh, all sons of Janak Singh
9. Patiraj Kuer, wife of Janak Singh, all of village Bikrampur, P.S. Marhowrah, District Saran.

.... Petitioner/s

Versus

1. State of Bihar
2. Commissioner, Saran Division, Chapra
3. Collector, Saran
4. Land Reforms Deputy Collector, Chapra
5. Shankar Singh
6. Radha Mohan Singh
7. Rasendra Singh
8. Rajiv @ Munna Singh
9. Sushil Singh all sons of late Rajeshwar Singh
10. Bhulia Kumari, daughter of Rajeshwar Singh
11. Prabha Devi daughter of late Rajeshwar Singh wife of Gopinath Singh of village Monopur, P.s. Doriganj District Saran
12. Malti Devi, daughter of Rajeshwar Singh, wife of Krishna Singh of Samahuta, P.s. Kopa District Saran.
13. Dular Kuar daughter of RajeshwAR Singh, wife of Rama Singh of Dahakani District-Saran
14. Rampi Devi daughter of Rajeshwar Singh wife of Banaras Singh, of Madhopur, P.S. Jalalpur, District Saran.
15. Bharat Bhushan Singh son of late Madan Mohan Singh
16. Ajai Kumar Singh son of late Madan Mohan Singh
17. Meena Devi
18. Kamini Devi
19. Renu Devi,
20. Sangita Kumari, all daughters of Madan Mohan Singh

.... Respondent/s

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Appearance :

For the Petitioner/s : None
For the State : Mr. R.K. Sharma, AC to GP-21

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 20-05-2015

1. The petitioners seek quashing of the following orders:-

> "i) The order dated 28.5.1999 passed by Commissioner, Saran Division, Chapra in BML Revision Case No. 104 of 1988-89 dismissing the revisional applications filed bdy the petitioners under Section 12 of the Bihar Money Lenders Act (Annexure-4.
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> ii) The order dated 20.12.1988 passed by Collector, Saran, Chapra in Redemption Appeal No. 48 of 1985 ((nnexure-3).
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> iii) The order dated 29.3.1985 passed by Land Reforms Deputy Collector, Chapra the respondent no.4 in Redemption case No. 16 of 1984-85 rejecting the application filed by the petitioners for redemption (Annexure-2)."

2. From the pleadings on record, it appears that the petitioners had filed an application under Section 12 of the Bihar Money Lenders Act, 1974 before the Land Reforms, Deputy Collector, Chapra stating that one Nagina Singh had executed a usufructuary Mortgage deed dated 17.2.1943 in respect of land appertaining to Plot Nos. 542 and 543 of Khata No. 269 and had put him in possession. It was also asserted that said Nagina Singh sold 1 bigha 9 katha and 1 dhurs of land of plot No. 542 to Jagarnath Singh. Said Nagina Singh also

sold land to the Plot No.543 to Rajeshwar Singh and put him in possession. Said Rajeshwar Singh, thus, became the purchaser of lands of plot No. 543 while Plot No. 542 remained under mortgage. It was also asserted in the said application under Section 12 of the Money Lenders Act that possession of Rajeshwar Singh over 1 bigha 9 Katha and 1 dhurs of land was as zerspigar and upon expiration of seven year, possession of the land be given to him. The said application was filed on 12.3.1984. From the orders impugned, it would transpire that the Deputy Collector, Land Reforms dismissed the application on the ground that it was barred by limitation and held that provisions of Section 12 of the Money Lenders Act was not applicable as the said mortgage dated 17.1.1943 was barred by limitation.

3. Aggrieved by the said order, the petitioners preferred appeal before the District Magistrate, Saran who by an order dated 20.12.1988, finding no infirmity in the order of the Deputy Collector, Land Reforms dismissed the appeal and held that right of redemption was upto 1980 in view of Section 30 of the Limitation Act, 1963, and therefore, the claim was maintainable upto 1980 only. The petitioners' Revision application was also dismissed by an order dated 28.5.1992 by

the commissioner, Saran Division, Chapra.

4. It is the assertions of the petitioners that the deed of mortgage dated 17.2.1943 stipulated right of recovery of possession after seven years, and therefore, the period of limitation would have started after completion of seven year i.e. after 17.2.1950. Relying upon the provision of Section 30 of the Limitation Act, it is the plea of the petitioners that in a case if the period of limitation is shorter than the period of limitation provided for a particular suit prescribed by the Limitation Act, 1908, such suit may be instituted even after a period of seven years next after the commencement of the limitation Act or within the period prescribed for such suit.

5. It has accordingly, been asserted that the application filed before the Collector, Land Reforms under Section 12 of the Money Lenders Act was not barred up to 17.2.1987. I do not find any force in submission made on behalf of the petitioners in view of clear provisions under Section 30 of the Limitation Act, 1960 which reads thus:-

> "30. Provisions for suits, etc, for which the prescribed period is shorter than the period prescribed by the Indian Limitation, 1908- Notwithstanding anything contained in this Act,
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> (a) Any suit for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be instituted within a period of (seven years)

commenced after the commencement of this Act, or within the period prescribed for such suit by the Indian Limitation Act, 1908, whichever period expires earlier;

Provided that if in respect of any such suit, the said period of seven years expires earlier than the period of limitation prescribed therefor under the Indian Limitation Act, 1908, as has already been expired before the commencement of this Act is shorter than the period prescribed for such suit under this Act, then the suit may be instituted within the period of limitation prescribed therefor under this Act;

(b) Any appeal or application for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be preferred or made within a period of ninety days commenced after the commencement of this Act or within the period prescribed for such delay or application by the Indian Limitation Act, 1908, whichever earlier expires also."

6. By operation of Section 30 of the Limitation Act, the period of limitation for filing an application under Section 12 of the Money Lenders Act could not have gone beyond the period of 30 years. As per Section 30 of the Limitation Act, 1963 the maximum period prescribed is 30 years.

7. I do not find any infirmity in the orders. The writ application is accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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