

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11872 of 1996

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1. MOTI LAL SINGH SON OF RAM CHIJ KOIRI ALIAS RAM CHIJ SINGH
 2. RAM BILAS SINGH, SON OF RAM CHIJ KOIRI, ALIAS RAM CHIJ SINGH,
BOTH RESIDENTS OF VILLAGE BASAULI, POLICE STATION BUXAR,
DISTRICT BUXAR

.... Petitioners

Versus

1. THE STATE OF BIHAR
 2. ADDL. MEMBER, BOARD OF REVENUE, BIHAR
 3. ADDL. COLLECTOR, BUXAR
- RESPONDENT 1ST SET
4. AKHAURI RAM SEWAK PRASAD, SON LATE AKHAURI BHAGWAN
PRASAD, RESIDENT OF VILLAGE BASAULI, POLICE STATION BUXAR,
DISTRICT BUXAR
- RESPONDENT 2ND SET
5. AKHAURI MADAN KISHORE PRASAD, SON OF LATE AKHAURI BHAGWAN
PRASAD, RESIDENT OF BILLAGE BASAULI, POLICE STATION BUXAR,
DISTRICT BUXAR

.... RESPONDENT 3RD SET.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

5 30-04-2015 No one appears for the petitioners and the respondents.

The writ petition has been filed for quashing order dated 28.9.1996, passed by respondent on 2 in Case no. 285 of 1994 under Section 32 of the Land Ceiling Act as well as order dated 11.4.1994, passed by respondent no.3 in Case no. 53 of 1991-92 by which the claim of respondent no.2nd set for pre-emption has been allowed.

The land in question relates to 65 decimals of land of Plot no. 3352, Khata no. 625 of village Basauli, police station Buxar, district Buxar. It belongs to respondent no.5 who by a

registered sale deed dated 26.9.1979 sold the same to the petitioners.

Respondent 2nd set filed a petition under section 16(3) of the Land Ceiling Act before the LRDC, Buxar, claiming pre-emption in respect of the purchased land of the petitioners. The case of respondent 2nd set was that he was a co-sharer of adjoining raiyat of the disputed land and so he was entitled to pre-emption. The petitioners contested the claim on the ground that they themselves are adjoining raiyats of the disputed land, as they hold plot no. 3255 in the adjacent north of the disputed land.

There is no dispute to the fact that the petitioners are adjoining raiyats, whereas respondent 2nd set is both co-sharer and adjoining raiyat. In pre-emption matter, the right of a co-sharer who is also an adjoining raiyat would prevail upon a right of a purchaser who would only be a adjoining raiyat. However, in the instant case, a co-sharer sold his land which was in the boundary of the disputed land which fact was suppressed. According to the petitioners, respondent 2nd set who was an adjoining raiyat and co-sharer of the disputed land, has sold the land which belonged to the same boundary.

In the facts and circumstances of the case, in my view, the matter requires fresh consideration. In the result, the impugned orders dated 28.9.1996 and 11.4.1994 are set aside.

The writ petition is allowed and the matter is remitted to respondent no.2 for fresh consideration.

(Samarendra Pratap Singh, J)

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