IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2 of 2000

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1.Ramjee Sharma son of Late Pachai Sharma
2. Smt. Sumitra Devi wife of Shri Rameshwar Sharma
Both are resident of Village and P.O. Mirja Nagar, Pargana Bishara, Sub Division Mahka District Vaishali.

.... Petitioner/s

Versus

The State of Bihar & Ors .... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.K.Tiwary
Mr. Abhitabh Kumar

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

8 09-07-2015 The land in question pertains to Survey Plot No.2074 of Khata No.114 measuring 26 decimal recorded in the name of Bindeshwar Singh and Krishna Singh. The petitioners purchased 13 decimal lands from the share of Bindeshwar Singh and other rest 13 decimal land from the share of Krishna Singh. However, there is some discrepancy in the deed of registration mentioned in paragraph 5 of the writ petition.

One Ram Kali Devi (Respondent No.5) filed a pre-emption application before the Court of D.C.L.R. Vaishali vide Case No.18/95 on the ground that she is a boundary raiyat for plot which was purchased by the petitioners on 31.7.1992 from Bindeshwar Singh.The petitioners challenged the pre-emption application on the ground that the said pre-emption application was not in appropriate format and no such copy was given to the petitioner transferee. The learned D.C.L.R., Vaishali by order dated 14.5.1996 rejected the claim of pre-emption of respondent No.5. Being aggrieved, respondent No.5 filed an appeal bearing Case No.56/96-97 before the Collector, Vaishali which by order dated 23/30.6.1997 allowed the appeal and set aside the order passed by the learned trial court. A revision filed before the learned Additional Member, Board of Revenue vide Board Revision Case No.167A/97 too was rejected.

The petitioners submit that both the Appellate Court and the Revisional Court failed to consider that they are boundry raiyats. The petitioners next submit that they did not get an opportunity of hearing to present their case before the learned Additional Member, Board of Revenue.

In view of the fact that the petitioners did not get adequate opportunity to place their case before the learned Additional Member, Board of Revenue, the order dated 20.11.1999 passed by it in Board Revision Case No.167A/97 is set aside. The matter is remitted to him for afresh adjudication after providing an opportunity of hearing to both the parties.

In the result, this writ application is allowed with observations aforesaid.

(Samarendra Pratap Singh, J)

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