

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2827 of 1995

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Bibi Zohra Khatoon, wife of Abdul Qaiyum, resident of Village – Masuriya, Police
Station – Mahalgaon, District - Araria

.... Petitioner/s

Versus

- 1 The State of Bihar
- 2 The Additional Member Board of Revenue, Bihar, Patna
- 3 The Collector, Araria
- 4 The Deputy Collector, Land Reforms, Araria
- 5 Md Harish, son of Md Taha
- 6 Md Mansoor, son of Md Taha
- 7 (a) Abdul Qaiyum
(b) Bibi Matluba Khatoon
(c) Bibi Sayeeda
- 8 (a) Md Moizuddin
(b) Md Anzar Alam
(c) Mussarat Zahan
(d) Bibi Talat, minor through her natural guardian, father PS – Amour,
District – Purnea
- 9 Bibi Sayeeda, wife of Md Kaiser Alam, daughter of late Sadir, residents of
Village – Masooriya, PS – Mahalgaon, District – Araria

.... Respondent/s

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For the Petitioner/s : Mr Uday Bhanu Roy, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 30-04-2015

Heard learned counsel for the petitioner and learned
counsel for the State. No one appears for the contesting respondents 5
and 6 nor any one is present on behalf of respondents No 7, 8 and 9.

2 Before proceeding further, it is necessary to notice
the relationship as amongst the parties. The husband of the petitioner
and respondents No 5 and 6 are cousin brothers. Respondents No 5
and 6 are the preceptors. Respondent No 7 is the mother of husband

of the petitioner. Respondents No 8 and 9 are sisters of the husband of the petitioner.

3 It appears that the family of the husband of the petitioner had extensive lands at Village – Masuriya, PS – Mahalgaon, District – Araria. This included the lands which belonged to the sisters of petitioner's husband. Petitioner's husband purchased some lands from two of his sisters that is respondents No 8 and 9 in name of his wife, the petitioner and this sale/purchase has been sought to be preempted by his cousin brothers.

4 The two Courts below have held against the petitioner only on the ground that petitioner is not an adjoining raiyat. Learned counsel for the petitioner submits that both the Courts below have forgotten this relationship. It is not in dispute that petitioner's husband also has land there. Apart from being an adjoining raiyat, he is member of the family. He had every right to purchase the said land from his sisters in the name of his wife.

5 Having considered the matter, in my view, the submission is correct. The relationship, not being in dispute, the authorities below ought to have considered that the husband of the petitioner was in the family and a boundary raiyat. Such a sale could not have been preempted under Section 16 (3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act.

6 In that view of the matter, the orders of the authorities allowing preemption is wholly without jurisdiction and is, accordingly, set aside. The writ petition is allowed.

(Navaniti Prasad Singh, J)

M.E.H./-

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