

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3846 of 1995

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1. Rajeshwar Singh son of Late Chhakauri Singh
 2. Mahadei Kuer, Widow of Late Chhakauri Singh
 3. Brij Baso Kuer, Widow of Late Chhakauri Singh. All the residents of village Mujian, P.S. Kudra, District – Kaimur (Bhabhua)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Patna
3. The Collector, Bhabua (Kaimur)
4. The Additional Collector, Bhabua (Kaimur)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shankar Sahay, Advocate
For the State : Mr. Din Bandhu Singh, GP-9
Mr. Sandip Singh, AC to GP-9

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 23-07-2015

Heard learned counsel for the petitioners and Sri Din Bandhu Singh, G.P.-9 for the State.

2. Petitioner no.1 is the son and petitioner nos. 2 and 3 are the two wives of the original land-holder, Chhakauri Singh. They have filed this writ petition assailing the order dated 30.11.1993, Annexure-1 passed by Additional Collector, Bhabua in Ceiling Case No. 121 of 1993, which has also been affirmed in appeal and revision under orders dated 03.01.1994, Annexure-2 passed by Collector, Bhabua in Ceiling Appeal No. 9 of 1993-94 and 08.08.1994, Annexure-3 by the Additional Member Board of Revenue in Revision Case No. 48 of 1994 affirming the original order of the Additional

Collector that original land-holder, Chhakauri Singh was entitled to two units, one for himself and his two wives, petitioner nos. 2 and 3 and the other for his adult son, petitioner no.1.

3. Aforesaid order is being assailed on the ground that the original land-holder, Chhakauri Singh having married twice before coming into force of the Hindu Marriage Act, 1955, both the wives were entitled for separate unit along with the adult son. Placing reliance on the judgment of this Court in the case of **Ganesh Bharthi Vrs. The State of Bihar and others, 1977 BBCJ 384**, it is further submitted that both the wives of Chhakauri Singh, petitioner nos. 2 and 3 having been married prior to coming into force of the Hindu Marriage Act, 1955 are entitled for grant of unit as on the date of their marriage, they had the status of the wife of Chhakauri Singh and in that capacity they shall be entitled for grant of one unit.

4. Such submission is being refuted by the State counsel. He submits that personal law of the parties will not prevail as in terms of Section 5 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 read with definition of family and land-holder as defined in the definition section, Sections 2(ee), 2(g) of the Act, the family of the land-holder with spouse and minor children is entitled to one unit. It is submitted that on the appointed date, Chhakauri Singh having left for his heavenly abode, his family

consisted of two wives and one adult son. The two wives of Chhakauri Singh i.e. petitioner nos. 2 and 3 are entitled for one unit and adult son, petitioner no.1 is entitled for another unit. Placing reliance on the majority judgment of this Court in the case of **The State of Bihar Vrs. Shri K.M. Zuberi & Ors., 1986 BBCJ 82**, it is submitted that statutory law will prevail over the personal law of the parties in land ceiling matters and held that Muslim son though not entitled to any share in the properties of his father during his life time, but shall be entitled for a unit. Applying the same principle, it is held that Hindu widow is entitled for a share in the property of her husband, but not entitled for separate unit as a land-holder. Both the widows are treated as the family member of the husband.

5. In view of the Full Bench judgment of this Court in the case of **The State of Bihar Vrs. Shri K.M. Zuberi & Ors.** (supra), I have no option, but to dismiss the writ petition, which is, accordingly, dismissed.

(V.N. Sinha, J.)

Arjun/-

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