

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.186 of 2009

IN

Civil Writ Jurisdiction Case No. 1362 of 2007

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Ramakant Singh, son of Late Sheo Pujan Singh, resident of village –
Nawalia, P.O. – Dighita, P.S. – Kochas (Parsathua), District – Rohtas.

----Vendee – Petitioner -----Appellant

Versus

1. The State of Bihar
 2. Additional Member, Board of Revenue, Bihar, Patna.
 3. The Additional Collector, Rohtas
 4. The Deputy Collector, Land Reforms, Sasaram, Rohtas
- Respondents 1st Set----Respondents.
5. Jokhan Singh, son of Late Parikhan Singh
 6. Kamal Prasad Singh, son of Jokhan Singh
- Resident of village – Nawalia, P.O. – Dighita, P.S. – Kochas
(Parsathua), District – Rohtas.
- Pre-emptor ----Respondents 2nd Set – Respondents.
7. Kameshwar Singh, son of Bansh Narayan Singh, resident of village
– Nawalia, P.O. – Dighita, P.S. – Kochas (Parsathua), District –
Rohtas.
- Vendor----Respondents 3rd Set—Respondents.

With

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Letters Patent Appeal No. 194 of 2009

IN

Civil Writ Jurisdiction Case No. 1384 of 2007

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Batoran Singh, son of Late Lachhan Singh, resident of village –
Nawalia, P.O. – Dighita, P.S. – Kochas (Parsathua), District – Rohtas.

-----Vendee – Petitioner --- Appellant.
Versus

8. The State of Bihar

9. Additional Member, Board of Revenue, Bihar, Patna.

10.The Additional Collector, Rohtas

11.The Deputy Collector, Land Reforms, Sasaram, Rohtas

-----Respondents 1st Set----Respondents.

12.Jokhan Singh, son of Late Parikhan Singh

13.Kamal Prasad Singh, son of Jokhan Singh

Resident of village – Nawalia, P.O. – Dighita, P.S. – Kochas
(Parsathua), District – Rohtas.

-----Pre-emptor ----Respondents 2nd Set – Respondents.

14.Kameshwar Singh, son of Bansh Narayan Singh, resident of village
– Nawalia, P.O. – Dighita, P.S. – Kochas (Parsathua), District –
Rohtas.

----Vendor----Respondents 3rd Set—Respondents.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 24-04-2015

These two Letters Patent Appeals have been filed
against judgment and order of the learned Single Judge in the two
analogous writ petitions.

2. The two writ petitioners, who are appellants before
us, had purchased by registered sale deeds the two small pieces of
agricultural lands. The private respondents in the writ petition being
respondent nos. 5 and 6, on coming to know of the same, filed



applications in terms of Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the “Act”), exercising their right of pre-emption on the ground that they were the boundary raiyat and as such, had a right to pre-empt the sale. The matter was taken up by the Deputy Commissioner Land Reforms (hereinafter referred to as the “D.C.L.R.”), at the first instance, who dismissed the pre-emption applications holding that the writ petitioners had purchased the land for the purposes of their residence, as upon instruction, he found hutments thereon. The private respondents preferred Appeal before the Additional Collector, who upon inquiry and hearing the parties, came to a finding that the land was agricultural land and the writ petitioners had other lands also. He further found that the finding of the D.C.L.R., that the land was homestead land, was incorrect, inasmuch, it is after he purchased and after coming to know of pre-emption applications. It is against this order that the writ petitions were filed.

3. We have heard learned counsel for the appellants and learned counsel for the contesting private respondents as well as learned counsel for the State and perused the records.

4. A writ court, while exercising the right of judicial review, does not sit in appeal over the courts or the tribunal, but only sees whether the orders have been passed after observing due procedure. In other words, it does not exercise writ jurisdiction but only satisfy itself as to the procedural propriety or impropriety.

5. In the present case, two concurrent facts found against the writ petitioners. The Additional Collector in appeal and the



Additional Member, Board of Revenue in Revision, both have found that the land in question was purely agricultural lands and the writ petitioners had built huts after their purchase to frustrate pre-emption claim. They had other lands as well. These concurrent findings of fact and no procedural infirmity having been pointed out, in our opinion, the learned Single Judge did not err in law in dismissing the writ petitions, we concur.

7. Accordingly, These appeals are dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

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