

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.327 of 2009

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Jiwachh Lal Mandal, son of Late Dave Lal Mandal, resident of Basgara Narayanpur, P.S. Raniganj, District- Araria

.... Petitioner

Versus

1. The State of Bihar
2. The Divisional Commissioner, Purnea
3. The Collector of District Araria, Araria
4. The Land Reforms Deputy Collector, Araria, District- Araria
5. Binod Kumar Mandal
6. Pramod Kumar Mandal
- Sl. No.5 and 6 sons of Fagn Mandal
7. Sadanand Mandal, son of Prithvi Mandal
- 5 to 7 all residents of Basgara Narayanpur, District-Araria
8. Karu Lal Mandal, son of Nipit Mandal, resident of village- Chhatiyona, P.S. Raniganj, District- Araria

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mallika Mazumdar
Mr. Prem Kumar

For the Respondent/s : Mr. AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

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4 24-04-2015 Heard Ms. Mallika Mazumdar, learned counsel for the petitioner and learned AC to GP-2.

The petitioner claiming right of preemption and after losing before all the three courts below approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India. The petitioner had filed a petition under Section 16(3) of the Bihar Land Reforms(Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 claiming right of preemption in respect of the land pertaining to Khata No.150, Plot Nos.51 and



52, situated in village- Narayanpur, Police Station-Raniganj, District- Araria. It was claimed that despite the fact that the petitioner was adjoining raiyat, Respondent no.7 sold the land to Respondent nos. 5 and 6. The said petition was registered as Case no.02/04-05 in the court of D.C.L.R., Araria. Before the D.C.L.R., private Respondents appeared and raised objection for rejection of the preemption case on the ground that registration of the land was incomplete. Meaning thereby that registration of the sale deed was not done and on this ground, the D.C.L.R. rejected the preemption case. Against the order of the D.C.L.R., the petitioner preferred an appeal vide Case no. 40/2004-05, which too stood dismissed and finally Revision preferred by the petitioner was rejected only on the ground of limitation.

Learned counsel for the petitioner submits that instead of rejecting the preemption case, the D.C.L.R. was required to keep the matter pending till the registration of the sale deed and, as such, the order of the D.C.L.R. is liable to be set aside and consequently two other orders are liable to be set aside.

I have examined the impugned order. Fact remains that once the registration was itself incomplete, as per provision contained in Rule-19 (2) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land, Act, 1963, there

was no reason to entertain such petition. The provision is very much specific that preemption application is to be filed with Challan regarding deposit of the amount together with sum equal 10 % thereafter with copy of registered sale deed. In absence of registration of sale deed the learned D.C.L.R. has rightly not entertained the petition and rejected the same, which has been affirmed by the appellate authority. Finally revisional court also rejected the revision, of course, on the ground of limitation.

Since in the order of the D.C.L.R., there is no illegality and irregularity, there is no reason to entertain this writ petition.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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