

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4702 of 2009

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Ram Badan Singh S/o Late Ram Sharan Singh, R/o Vill. – Dalan Haripur,
P.O. – Budhwa, P.S. – Alauli, District – Khagaria.

.... Petitioner

Versus

1. The State of Bihar through the Hon'ble Member, Board of Revenue,
Patna.
2. Satish Kumar Singh
3. Arun Kumar Singh, both sons of Jainath Prasad Singh, resident of
village – Dalan Haripur, P.O. – Budwa, P.S. – Alauli, District –
Khagaria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Tarun Kumar Sinha

For the Respondent/s : AC to SC - 12

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 28-04-2015 Heard Sri Tarun Kumar Sinha, learned counsel for the
petitioner and learned A.C. to Standing Counsel – 12.

The petitioner, who had claimed right of pre-emption,
has approached this Court invoking its writ jurisdiction under
Article 226 of the Constitution of India, with a prayer to set aside
an order dated 04-12-2008 passed in Revenue Case No. 137 of
2005, whereby, learned Addl. Member, Board of Revenue, Bihar
had rejected the restoration petition on the ground of inordinate
delay. The restoration petition was filed after about eight months
from the rejection of revision case. Petitioner's pre-emption
application was earlier allowed by the D.C.L.R., Khagaria, vide
Case No. 5 of 2002-03, however; the said order was set aside by

the appellate authority in pre-emption appeal case no. 10 of 2002-03. After the order of the appellate authority, on perusal of the impugned order, it is evident that revision was filed belatedly, which too stood dismissed due to non-prosecution. However, after about eight months restoration petition was filed, which has been dismissed by the learned Addl. Member, Board of Revenue only on the ground of delay. On perusal of the order, it is evident that the learned Addl. Member has noticed that no plausible explanation was given for filing restoration petition belatedly. The learned Addl. Member has discussed the matter in detail and thereafter, has rejected the restoration petition.

Fact remains that it is admitted position that right of pre-emption is itself a weak right, which can be frustrated by process of law. On perusal of the impugned order, the Court is satisfied that while rejecting the restoration petition, learned Addl. Member, Board of Revenue has committed no error.

The petition stands dismissed.

(Rakesh Kumar, J.)

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