

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6749 of 2009

=====

Shahid Mian, son of Late Rahman Mian, Resident of Village – Somgarh,
Tola- Murli, P.S. – Sathi, District- West Champaran, Bettiah.

.... Petitioner

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The D.C.L.R. (Deputy Collector Land Reforms), Narkatiaganj, West Champaran, Bettiah.
5. Bibi Shairun Nessa, Daughter of Late Idrish Mian, Wife of Samsuddin Mian, resident of village- Mudera, P.O. & P.S. – Ram Nagar, District- West Champaran Bettiah. (VENDOR)
6. Raj Kapoor, Minor son of Dhruva Prasad through natural guardian and father Dhruva Prasad, resident of Village- Murli, P.O. – Bhabhta, P.S.- Sathi, District- West Champaran, Bettiah. (VENDEE)

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Satish Chandra Mishra

For the Respondent/s : AC to GA - 12

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 08-05-2015 Heard Sri Satish Chandra Mishra, learned counsel for the petitioner and learned A.C. to Govt. Advocate – 12.

The petitioner claiming right of pre-emption has approached this Court, with a prayer to quash an order dated 24-10-2008 passed by the learned Additional Member, Board of Revenue, Bihar (for short “Addl. Member”), whereby the learned Addl. Member has affirmed the order of the Collector, Bettiah. The District Collector by its order dated 25-10-2004 had set aside the order passed by the Deputy Collector Land Reforms, Bettiah (for short “D.C.L.R.”) in Pre-emption Case No. 19 of 2000-01

filed by the petitioner, which was allowed.

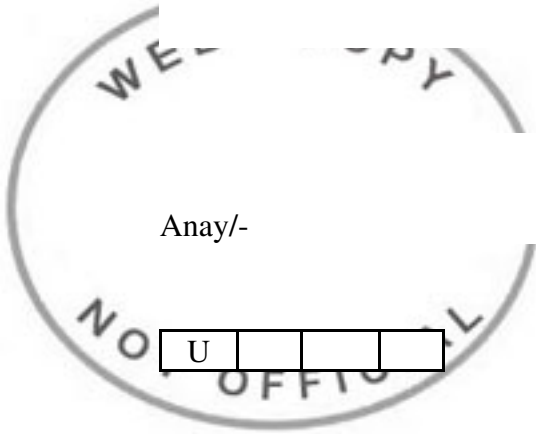
Learned counsel for the petitioner submits that after setting aside the order passed by the D.C.L.R., the learned Collector had remitted back the matter to D.C.L.R. for deciding the matter. He submits that before the D.C.L.R., the purchaser i.e. respondent no. 6 had not raised issue that he was a landless person, however; before the appellate authority, this plea was taken and thereafter, the order was passed by the District Collector. Learned counsel for the petitioner has argued that the plea of landless was to be taken at initial stage, not at subsequent stage. On this ground, a prayer has been made for setting aside both the orders i.e. order of the appellate authority as well as Addl. Member.

Besides hearing learned counsel for the petitioner, I have also perused the materials available on record. Fact remains that matter has been remitted back to the D.C.L.R. to adjudicate the matter again. It is made clear that while considering the matter in remand, the D.C.L.R. may examine as to whether on the date of purchase, the respondent no. 6 was landless person or not.

Accordingly, without interfering with the matter, the writ petition stands disposed of.

It goes without saying that after remand, the learned

D.C.L.R., after hearing both the parties, may pass the order in accordance with law.



(Rakesh Kumar, J.)

Anay/-

U			
---	--	--	--