

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3415 of 1995

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1. Sunaina Devi wife of Nagendra Sharma, resident of village Noawan, P.S. – Shakurabad, District – Jehanabad.
 2. Shyamdeo Singh, son of Sukh Nandan Singh
 3. Sukh Nandan Singh, son of Late Deo Balak Singh
 4. Sunil Kumar, son of late Ram Udai Singh
 5. Anil Kumar alias Rajib Kumar, son of late Ram Udai Singh
 6. Heeramani Devi alias Lalmani Devi, wife of late Ram Udai Singh
 7. Rubi Devi, daughter of late Ram Udai Singh
 8. Guddi Devi, daughter of late Ram Udai Singh
- All resident of village – Main, P.S. – Belaganj, District – Gaya.

-----Petitioners

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector, Gaya.
4. The Deputy Collector, Land Reforms, Sadar, Gaya.
5. Sonadhari Prasad Singh, son of Late Ambika Singh, residents of village - Main, P.S. – Belaganj, District – Gaya.
6. Surendra Sharma, son of Rameshwar Sharma, resident of village – Garaaur, P.S. – Tekari, District – Gaya.

-----Respondents

With

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Civil Writ Jurisdiction Case No. 3416 of 1995

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1. Sunaina Devi wife of Nagendra Sharma, resident of village Noawan, P.S. – Shakurabad, District – Jehanabad.
 2. Ramadhar Sharma, son of Sri Sukh Nandan Singh
 3. Bashistha Sharma, son of Sri Sukh Nandan Singh
- Both residents of village - Main, P.S. – Belaganj, District – Gaya.

-----Petitioners

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector, Gaya.
4. The Deputy Collector, Land Reforms, Sadar, Gaya.
5. Sonadhari Prasad Singh, son of Late Ambika Singh, residents of village - Main, P.S. – Belaganj, District – Gaya.
6. Surendra Sharma, son of Rameshwar Sharma, resident of village – Garaaur, P.S. – Tekari, District – Gaya.

-----Respondents

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Appearance :

(In CWJC Nos. 3415 of 1995 & 3416/1995)

For the Petitioners : Mr. Hari Krishna Kumar, Advocate
Mr. S.N. Singh, Advocate
For respondent no. 5 : Mr. P.N. Shahi, Sr. Advocate
Mr. Mrigendra Kumar, Advocate
For the State : Mr. Harsh Singh, Advocate, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 30-04-2015

Heard learned counsel for the petitioners and
learned counsel for the State.

2. Both these applications are being heard
together and disposed of by this common judgment.

3. Upon respondent no. 5 pre-empting the sale by
respondent no. 6 to the petitioners, the vendee executed a
gift of deed in favour of his daughter to frustrate the pre-
emption. This was the bone of contention.

4. The pre-emptor contended that on coming to
know of the pre-emption application, the vendee executed a
gift of deed which could bring out the earlier transaction
from the application under Section 16(3) of Bihar Land
Reforms (Fixation of Ceiling Area and Acquisition of
Surplus Land) Act (hereinafter referred to as the Ceiling
Act), and the gift was registered long after the pre-emption
application, and, as such, the gift deed was not the *bona fide*

or genuine transaction. The matter travelled to the Additional Member, Board of Revenue, who, by the impugned order, has remanded the matter for fresh consideration. The authority below has set aside the pre-emption application without looking into this aspect.

5. In my view, it would not be proper for this court to interfere in the matter at this stage as there is no final decision. The order of the Additional Member, Board of Revenue, cannot be said to be either without jurisdiction or in violation of principles of natural justice. It is an order which is not a final order and does not decide the rights of the parties finally. In that view of the matter, I am not inclined to interfere in the matter at this stage. However, parties are at liberty to contest the matter as they may be advised at the stage to which the case has been remanded or thereafter.

6. With this observations, these applications are disposed of.

(Navaniti Prasad Singh, J.)

Rajeev/NAFR

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