

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1536 of 2012

IN

Civil Writ Jurisdiction Case No. 13914 of 2012

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Most. Parvati Devi, W/O Late Laxmi Yadav, R/O Village and P.O.- Bahadurpur,
P.S.- Alauli, District- Khagaria

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms Department,
Govt. of Bihar, Patna
2. The Divisional Commissioner, Munger
3. The District Magistrate-Cum-Collector, Khagaria
4. The Additional Collector, Khagaria
5. The D.C.L.R., Khagaria
6. Brahmdev Yadav, S/O Ramanugrah Yadav, R/O Village and P.O.- Bahadurpur,
P.S.- Alauli, Distt.- Khagaria

.... Respondent/s

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Appearance :

For the Appellant : Mr. Shekhar Kumar Singh, Advocate

Mr. Pankaj Kumar Jha, Advocate

For Respondents 1 to 5 : Mr. Manoj Kumar Jha, AC to GP-26

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 16-07-2015

Heard learned counsel for the appellant-writ
petitioner and the State.

2. Appellant is the purchaser of the lands in
question. She has filed this appeal assailing the order dated
13.08.2012, passed by learned Single Judge in C.W.J.C. No. 13914 of
2012 whereunder the writ petition was dismissed affirming the orders
of the authorities below allowing the pre-emption application holding

that the pre-emptor, respondent no. 6 is not only co-sharer but also the boundary raiyat of the lands in question.

3. It is submitted on behalf of the appellant, writ petitioner that the pre-emption application itself was not maintainable in view of the omissions of the pre-emptor to mention in Form LC-13 complete details of the land as also on the ground that the purchaser appellant-writ petitioner being landless lady having only the purchased land in her name the pre-emption case itself is not maintainable.

4. Both the submissions are required to be rejected in view of the fact that omission to give details of the land including boundary etc. in Form LC-13 can always be furnished, corrected, as such, the omission is not fatal and corrected. In this connection judgment of the Supreme Court in the case of ***Hiralal Agrawal etc. v. Rampadarath Singh and others, etc. AIR 1969 SC 244.***

5. The other submission that the appellant is landless does not appear to have been raised before the original authority and we have come to such conclusion as the said submission has not been considered by the original authority i.e. D.C.L.R. Counsel, however, tried to meet such finding of ours by submitting that such submission was raised before the Commissioner, the revisional authority.

6. In the light of aforesaid submission, we asked the learned counsel for the appellant to produce the objection filed by his client before the original authority so as to enable us to verify whether such submission was raised and not considered by the original authority. Counsel is not in a position to produce the same and prayed for time, which we refuse to grant in view of the fact that this appeal directed against order dated 13.08.2012 was filed on 24.09.2012 and has remained pending all these years. We are not in a position to further adjourn the matter. The appeal is dismissed in view of the concurrent finding of fact recorded by the authorities below, however, with liberty to the appellant/ purchaser to seek review of the order of the D.C.L.R., collector under the Act if in the objection petition appellant-purchaser had asserted that she was landless prior to the execution of impugned sale deed.

(V.N. Sinha, J)

(Jitendra Mohan Sharma, J)

Rajesh/-

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