

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.6332 of 1995**

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1. Badanji Pandey
  2. Yogendra Pandey
  3. Subhash Pandey
  4. Sudama Pandey @ Tuntun
  5. Birendra Pandey
  6. Jitendra Pandey
- All sons of Bashistha Narain Pandey
7. Harishankar Pandey @ Munna Pandey, son of Hari Narayan Pandey
- All residents of village – Kharika, P.O. – Guthani, P.S. – Guthani,  
District – Siwan.

-----Petitioners

1. The State of Bihar
  2. Member, Board of Revenue, Bihar, Patna.
  3. The Collector, Siwan
  4. Deputy Collector Land Reforms, Siwan.
  5. Surendra Tiwari
  6. Devendra Tiwari
  7. Narendra Tiwari
  8. Bhupendra Tiwari
- All sons of Indradeo Tiwari, resident of village – Kharika Tola, P.O.  
& P.S. Guthani, District – Siwan.
9. Smt. Saraswati Devi, wife of Harihar Mishra, daughter of Bikrama  
Tiwari, resident of village – Rahtaua, P.O. – Belaon, P.S. – Darauli,  
District – Siwan.

----- Respondents

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**  
**ORAL JUDGMENT**

**Date: 19-05-2015**

The writ petitioners are purchasers of certain lands  
which had been preempted by private respondent nos. 5 to 8.  
Respondent no. 9 is the vendor.

The writ petition is against the order as passed by  
the Collector, Siwan, and affirmed by the Member, Board of



Revenue, Bihar, Patna, allowing the preemption application and setting aside the order of the D.C.L.R. rejecting the preemption application. The petitioners had purchased the land but by mistake of the scribe, their residential lands and property adjacent south to the land was not written in the sale deed. When the preemption application was filed, he requested the Deputy Collector Land Reforms (hereinafter referred to as 'D.C.L.R.') to inspect the land.

From the order of the D.C.L.R., it is clear that he inspected the land after notice to all the parties and came to a clear finding that the residential houses of the petitioners being situated of land contiguous south to the land in question, as such, upon finding that the petitioners were boundary raiyat and had purchased the small piece of land for residential purposes, he had rejected the application for preemption. From the order impugned, I find Collector and Member, Board of Revenue, both of them have not discussed this aspect at all nor they have given a finding that this finding of the D.C.L.R. was erroneous in any manner.

In that view of the matter, in my view, if the finding that the raiyat with regard to residential houses adjacent to the land in question, which belonged to the petitioner, is

correct then the orders of the Appellate Authority and Revisional Authority cannot be sustained. They are, accordingly, set aside and this writ application is allowed. The order of the D.C.L.R. is restored.

**(Navaniti Prasad Singh, J.)**

Rajeev/-

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