

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5197 of 2015

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Urmila Devi, Wife of Ram Narayan Ram, Resident of village- Khoriyapatti, P.S-
Mirganj, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate-cum-Collector, Gopalganj.
2. The Collector-cum-District-Magistrate, Gopalganj.
3. The Land Reforms, Dy Collector, Hathua, District- Gopalganj.
4. Jawahar Choudhary son of Shivdeni Choudhary.
5. Shri Yadav Son of Late Sawaroo Yadav, both resident of village Khoriyapatti,
P.S- Mirganj, District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ranjeet Kumar Pandey, Advocate
For the State : Mr. P.K.Sinha, AC to GA XII

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 10-07-2015

I have heard learned counsel for the petitioner and the
State.

Petitioner is aggrieved by the order dated
10.02.2015 passed by the Collector, Gopalganj in Land Ceiling
(16(3)) Appeal No. 5 of 2010 by which application of the petitioner
for spot verification has been rejected and the parties have been
directed to argue the case on merit.

It is contended on behalf of the petitioner that
respondent no. 5 executed a sale deed in favour of the petitioner
with respect to a piece of land measuring 2 katha 13 dhur of Khesra
No. 111 appertaining to khata no. 73 of Mauza Khoriya Patti on



payment of consideration amount of Rs. 85,000/-. After registration of the aforesaid sale deed a petition was filed by the respondent no. 4 under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 before the Deputy Collector Land Reforms, Hathua vide Ceiling Case No. 1/09-10. It is contended on behalf of the petitioner that, though the land was residential but, only on the basis of recital in the sale deed, it has been held by the Deputy Collector Land Reforms that the land concerned is agricultural. The order of the Deputy Collector Land Reforms has been challenged by filing Land Ceiling Appeal No. 5/10 before the Collector, Gopalganj. It is contended that in the aforesaid facts and circumstances of the case petitioner applied for spot verification to ascertain as to whether area is residential one or not specially when the petitioner is residing there by constructing a house upon it. However, the prayer has been rejected by the Collector.

This Court does not find any force in the submission made on behalf of the petitioner because the pre-emption application was filed on 2.7.2010 and the status of land on the date of pre-emption was to be determined for the purpose of ascertaining as to whether the same was residential or agricultural land. Now, after passage of 5 – 6 years, by making an inspection at the appellate

stage, would be meaningless as much development must have taken place subsequently. The petitioner also claim that he has constructed a house and residing in the same at same time it is admitted position that she had purchased a vacant land without any construction which goes to show that construction, if any, was made after purchase and even after filing of the pre-emption application. That would not improve the case of the petitioner. If there is any illegality in the order passed by the Deputy Collector Land Reforms then the appellate authority is competent to consider the same and rectify it or even set aside the order concerned.

However, the petitioner would be at liberty to assail the order passed by the Deputy Collector Land Reforms concerned on all grounds which would be available to her before the appellate forum which should be considered by the Collector without being prejudiced by the finding recorded or observation made in the present order.

Accordingly, this writ application, being devoid of any merit, is dismissed.

(Dr. Ravi Ranjan, J)

Spd/-

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