

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12539 of 2013

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Premshila Devi, W/O Shri Shyamlal Singh, Resident Of Village - Barki Karpurwa, P.S. Sasaram (Dehigaon) Distt - Rohtas (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Land Reform Deputy Collector, Sasaram (Rohtas)
3. Ajeet Prasad Sinha Son, of Late Chandra Bhushan Pd., Resident of Village - Karamdihra, P.O. And P.S. - Sasaram , Rohtas (Bihar) At Present Resident Of Mohalla - Matwari Beside The House Of Prof. B.N. Mishra, Hazaribagh, P.O. And P.S. - Distt - Hazaribagh (Jharkhand)
4. Narendra Prasad @ Bablu, S/O Late Sashi Bhushan Prasad
5. Gita Saran, W/O Late Surendra Prasad, S/O Late Sashi Bhushan Prasad, Resident Of Village - Karamdihra, P.O. And P.S. , Sasaram , Distt - Rohtas (Bihar) At Present 144/2/4, Road No. 13,A Dityapur, Dist - Saraikela, Kharswan, Jharkhand

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr.Adv.
Mr.Sanjay Kumar Tiwari, Adv.

For the Respondent no.3 : Mr. K.B.Nath, Adv.
Mr.Durga Narayan, Adv.
Mr.Krishna Sinha, Adv.

For the Respondent nos.4&5: Mr.Nawal Kishore Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 27-11-2015 Heard the parties.

The petitioner is aggrieved by the order dated 29.04.2013 passed in Pre-emption Case No.3 of 2012-13 by the respondent D.C.L.R., Sasaram (Rohtas), as contained in Annexure-6, whereby the prayer for amendment made on behalf of the pre-emptor – respondent no.3 has been allowed.

The learned senior counsel appearing on behalf of the petitioner has, though, argued the matter at some length, but he has not been able to point out any procedural error or legal bar, which prohibits the respondent D.C.L.R. from passing such an order of amendment. Otherwise also, this Court finds that the impugned order does not cause any prejudice to the case of the

writ petitioner-purchaser of the lands under dispute in the aforesaid pending pre-emption case.

It is well established that the claim of the pre-emption is required to be examined and decided strictly in accordance with the provisions contained in Section 16(3) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short 'Land Ceiling Act') and the Rules made thereunder. Indisputably, the pre-emption case was filed well within the time; therefore, pre-emptor will have to establish that he is either a boundary raiyat of the vended plot or a co-sharer of the vendor, and the lands under dispute is a land within the meaning of the Land Ceiling Act. If he fails on any count, the claim of pre-emption is liable to be dismissed.

In the aforesaid factual matrix, this Court directs the respondent D.C.L.R., Sasaram (Rohtas) to decide the claim of pre-emption of the respondent no. 3 strictly in accordance with law after giving an opportunity of hearing to the petitioner as also the respondent nos.4 and 5, besides others.

The parties shall be at liberty to raise all the issues of facts and law with respect to the claim of pre-emption raised on behalf of the respondent no.3, which shall be gone into by the respondent D.C.L.R. irrespective of the impugned order dated 29.04.2013 (Annexure-6).

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

(Birendra Prasad Verma, J)

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