

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1446 of 2012

IN

Civil Writ Jurisdiction Case No. 11961 of 2012

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Nirmala Devi W/O Lalan Tiwari R/O Vill-Sadokhar, P.S.-Chenari
P.O.-Sadokhar, Distt-Rohtas, At Present Residing At Q.No.3238 Sector
2a, Bokaro Steel City, Bokaro, Jharkhand.

.... Appellant

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The Collector, Rohtas at Sasaram
4. The Deputy Collector, Land Reforms, Rohtas at Sasaram
5. The Circle Officer, Chenari, Rohtas
6. Prano Devi W/O Gorakh Nath Thakur R/O Vill-Sadokhar, P.S.-
Chenari P.O.-Sadokhar, Distt-Rohtas.
7. Mahasi Ganga Mishra W/O Kameshwar Mishra R/O Vill-Kajhaw,
P.O.-Alampur, Distt-Rohtas.

.... Respondents

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Appearance :

For the Appellant : Mr. K.N. Choubey, Sr. Advocate
Mr. Ashok Kumar Garg, Advocate
Mr. Dineshwar Pandey, Advocate
For the Respondent no. 6 & 7 :Dr. Mayanand Jha, Advocate
Mr Dharmendra Kumar, Advocate
For the State : Mr. Renu Jha, AC to SC 30

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-11-2015

We have heard learned counsel for the appellant
and learned counsel for the private contesting respondents being
respondent nos. 6 & 7.

This matter arises out of a claim of preemption
made by the writ petitioner/appellant preempting the sale by



respondent no. 7 in favour of respondent no. 6 in respect of about 1 ½ Khatas of land for a consideration amount of Rs. 42,500/-. The authorities have negated the claim of preemption on the ground that the land was purchased for constructing a residential house. It may be noted that the first court i.e. court of D.C.L.R. accepted the contention and allowed the preemption application. Respondent nos. 6 & 7, being the vendee and vendor, respectively filed appeals before the Collector which was allowed and the preemption was consequently disallowed. The writ petitioner/appellant then filed revision before the Divisional Commissioner which was dismissed affirming the order of the Collector. This was challenged by him before the learned Single Judge pressing his right of preemption. It was noted that the sale had taken place on 02.04.2004. We are now in 2015. The authorities clearly holding that as per the sale deed itself, the sale was sought to be made for constructing a residential house and the Collector and the Divisional Commissioner have held that there was a thatched hut from before, and now the nature is totally changed and there is a pucca house which has been built. No doubt, the land was capable of being an agricultural land, but the sale deed itself shows that such a small portion of land was being purchased would not have been purchased for agriculture

after payment of such a high price, it being a purchase of urbanized land for residential purposes. The right of preemption under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area & Acquisition of Surplus Land) Act, 1981, does not arise.

This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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