

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8113 of 2003

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1. Basishth Gupta son of Late Tilangi Prasad Gupta
 2. Satyadeo Sharan Gupta @ Gupt son of Late Tilangi Prasad Gupta
 3. Basudeo Prasad Gupta @ Gupt son of Late Tilangi Prasad Gupta
 4. Bipin Bihari Gupta @ Gupt son of Late Tilangi Pd.Gupta
- All are residents of Village Sarsar, P.S.Siwan Muffasil, District Siwan

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Member, Board of Revenue at Old Secretariate Building, P.S.Sachivalya, District Patna
 3. Additional Collector, Siwan, District Siwan
 4. Deputy Collector, Land Reforms at Siwan, P.S.Siwan Muffasil, District Siwan
 5. Bijadhar Singh son of Late Gokhul Singh, resident of village Karana, P.O. Pachlakh, P.S.Siwan Muffasil, District Siwan
 6. Most. Kailashi Devi W/o Late Lal Bahadur Singh
 7. Dinesh Singh
 8. Ramesh Singh
 9. Chhotu Singh
- All sons of Late Lal Babgudur Singh, resident of village Karqana, P.O. Pachlakh, P.S.Siwan Muffasil, District Siwan
10. Smt.Bimla Kumari W/o Anil Kumar Shahi, resident of village Amlori, P.O. Amlori, P.S.Siwan, District Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. A.K.Singh Tarun, Advocate

For the Respondent Nos. 1 to 4 : Mr.Pratik Kumar Sinha, AC to GA XII

For the Respondent Nos. 6 & 7 : Mr. Raghav Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

14 04-04-2016

By office note dated 16.03.2016 it has been pointed out that the present writ petition stood rejected as against respondent no.5 on account of non-compliance of the Court's peremptory order dated 05.02.2008.

The present writ petition arises out of a proceeding under Section 16 (3) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short "Land Ceiling Act").

The learned counsel appearing on behalf of the

petitioners submits that the petitioners are pre-emptors of the vended plots and the respondent no.5 was the purchaser. Other private respondents are the vendors. The learned counsel appearing on behalf of the respondents does not dispute the aforesaid facts.

By order dated 26.11.1996 (Annexure-3) passed by the respondent DCLR, Siwan, the claim of pre-emption raised on behalf of the petitioners was allowed. However, aforesaid order passed by the original authority was set aside and reversed by the appellate authority by order dated 13.12.1997 (Annexure-4). The petitioners, being aggrieved by the appellate order, filed revision application under Section 32 of the Land Ceiling Act before the Board of Revenue, Bihar, Patna, which was finally dismissed by order dated 26.09.2002 (Annexure-5).

Evidently, the claim of pre-emption raised on behalf of the petitioners with respect to vended plots has been rejected by the appellate authority as also the revisional authority.

As noticed above, the writ petition stood dismissed against respondent no.5, the purchaser, in the year 2008 itself on account of non-compliance of the Court's peremptory order dated 05.02.2008. In above view of the matter, the petitioners filed MJC No.2919 of 2009 for restoration of writ petition as against respondent no.5. Unfortunately, that MJC application filed on behalf of the petitioners also stood dismissed on account of non-compliance of the Court's peremptory order dated 24.11.2010 and the aforesaid order has attained its finality.

It is well settled that the claim of pre-emption can not be allowed in absence of purchaser of the vended plots. Admittedly, the writ petition stood dismissed against the

purchaser. Therefore, it has become incompetent and cannot proceed further.

In the result, the writ petition, as a whole, has to fail and is dismissed on account of having become incompetent.

(Birendra Prasad Verma, J)

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