

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14016 of 2004

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Rajendra Singh son of Late Ram Bilash Singh, resident of Village Asadpur
Maibhara, Police Station Goraul, District Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Additional Member, Board of Revenue, Patna, Bihar
 3. The Collector, District Vaishali, Bihar
 4. The Land Reforms Deputy Collector, Mahua, District Vaishali, Bihar
 5. Asha Devi wife of Sri Sambhu Nath Singh
 6. Indu Devi wife of Sri Ram Nath Singh
- Respondent nos. 5 and 6 are residents of Village Asadpur Maibhara,
Police Station Goraul, District Vaishali
7. Ambika Singh son of Late Jwala Singh, resident of Village Asadpur
Maibhara, Post Office Bashunpur Arara, Police Station Goraul, District
Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Narain Singh, Advocate

For the Respondent Nos. 1 to 4 : Mr. Rajesh Kumar, AC to GP 3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 25-11-2016

Heard.

2. The matter in issue is the claim of pre-emption raised on behalf of the petitioner under Section 16 (3) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (in short “the Land Ceiling Act”) with respect to the vended plot no. 984, area 5 decimals only.

3. The petitioner is aggrieved by the order/resolution dated 21.08.2004 passed in Board’s Revision Case No. 240 of 2003 by the respondent Additional Member, Board of Revenue, Bihar, Patna, as contained in Annexure-4 of the writ petition, whereby the aforesaid revision case filed on behalf of the respondent no.5 and others was allowed and the order dated 25.08.2003 (Annexure-3) passed in Appeal Case No. 103 of 1997-98 by the District Collector, Vaishali was set aside, and the

order dated 08.09.1997/10.09.1997 (Annexure-2) passed in Pre-emption Case No. 39 of 1997 by the respondent D.C.L.R., Mahua has been affirmed, and thereby the claim of pre-emption raised on behalf of the petitioner has been dismissed.

4. The learned counsel appearing on behalf of the petitioner submits that the petitioner happens to be the boundary raiyat of the vended plot; therefore, he raised his claim of pre-emption under Section 16(3) of the Land Ceiling Act, but that was dismissed by the respondent D.C.L.R., Mahua by order dated 08.09.1997/10.09.1997 (Annexure-2). However, the petitioner succeeded before the appellate authority, but he again lost before the revisional authority. He next submitted that, in fact, the petitioner was not represented before the respondent Additional Member, Board of Revenue, Bihar, Patna, but aforesaid revision case was allowed behind the back of the petitioner and somebody else had appeared on his behalf without any authority from him. Therefore, according to him, the order impugned cannot be sustainable in law.

5. The learned State counsel appearing on behalf of the respondent nos. 1 to 4 has contested the matter and has submitted that, in fact, the petitioner had appeared before the Board of Revenue, Bihar, Patna through his counsel and his counsel had argued the matter and placed his case, but that was not accepted by the respondent Additional Member, Board of Revenue and his claim of pre-emption was rejected; which cannot be legally faulted.

6. After having heard the parties and on consideration of the materials available on the record, this Court finds that by recording a concurrent findings of fact, the original authority as

also the revisional authority have rejected the claim of pre-emption raised on behalf of the petitioner on the ground that he has failed to prove that he is the adjoining raiyat of the vended plot. This Court further finds that before the revisional authority, the petitioner was heard and his case was considered by the revisional authority. The issue raised on his behalf that somebody else had appeared on his behalf cannot be gone into in the present proceeding filed under Article 226 of the Constitution of India, at this stage, after lapse of more than 12 years.

7. For the reasons recorded above, this Court does not feel persuaded to interfere with the impugned revisional order. Furthermore, the claim of pre-emption has been raised only for a small parcel of land of 5 decimals. The revisional authority has also recorded a finding that the purchasers have no other land except the land purchased by them.

8. In above view of the matter, the writ petition is devoid of merit, and has to fail. It is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

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