

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1920 of 2010
IN
Civil Writ Jurisdiction Case No. 73 of 2006**

=====

Krishna Kumar, son of Late Sheo Shankar Prasad @ Shankar Sah, resident of
Village Phulwaria, P.O. Telari, P.S. Chenari, District Rohtas

.... Appellant

Versus

1. Chirai Devi, wife of Shri Awadhesh Bind
2. Awadhesh Bind, son of Late Shri Ayodhya Bind, both resident of Village +
P.O. Telari, P.S. Chenari, District Rohtas
3. The State of Bihar
4. The Member, Board of Revenue, Bihar, Patna
5. The Additional Members Board of Revenue, Bihar, Patna
6. The District Collector, Rohtas at Sasaram
7. The Additional Collector, Rohtas at Sasaram
8. The Deputy Collector, Lnad Reforms, Rohtas at Sasaram
9. Shankar Singh @ Bhim Singh, son of Late Deo Singh, resident of Village
Phulwariya, P.O. Telari, P.S. Chenari, District Rohtas

.... Respondents

=====

Appearance :

For the Appellant : Mr. Dineshwar Tiwary, Advocate
For the Respondents : Mr. Anjani Kumar Sinha No. 1

=====

**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 22-07-2016

The present intra-court appeal is against the
judgment and order dated 15.09.2010, passed by learned Single
Judge in C.W.J.C. No. 73 of 2006 (Chirai Devi and another Vs.
The State of Bihar and others).

The appellant is the pre-emptor, whose pre-
emption, as affirmed by the Board of Revenue, was upset by the
learned Single Judge. Learned counsel for the appellant states

that the appellant has died and an application for substitution has been filed.

Considering the facts and circumstances and hearing the parties substitution application being I.A. No. 5113 of 2014 is allowed.

Learned counsel for the appellant Sri Dineshwar Tiwary submits that the substituted appellant is not interested in pursuing the appeal and, as such, has instructions to withdraw this appeal.

Leave is granted.

This appeal is dismissed as withdrawn.

However, learned counsel for the private contesting respondent, who was the writ petitioner, submits that the appellant had filed a suit also as noticed by the learned Single Judge being Title Eviction Suit on the same ground of pre-emption. In our view, consequent to withdrawal of this appeal and the order of the learned Single Judge having become final, the title eviction suit for the same purpose under the same circumstances may not continue.

On behalf of the appellant, it is submitted that he would be even withdrawing the said title eviction suit but prays that the authorities may be directed to refund the pre-





emption money which the appellant had deposited before the D.C.L.R., Rohtas at Sasaram in connection with Pre-emption Case No. 10 of 1999-2000.

Having considered, it would be appropriate to direct the D.C.L.R., Rohtas at Sasaram to ensure that the pre-emption money, which was deposited on behalf of the appellant in course of the pre-emption proceedings aforesaid, be forthwith refunded to the substituted representative of the original appellant.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	