

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.625 of 2007

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Chhotelal Yadav son of Lachhu Yadav, resident of village Bheribari tola,
Mouza Basantpur, Police Station Sathi Anchal Lauriya, District West
Champaran

... Petitioner/s

Versus

1. Shiv Raj
2. Dinanath Rai

Both sons of Late Gannu Rai, resident of Chhadwali, Police Station
Lauriya, District West Champaran

3. Khobhari Raut son of Late Prahlad Raut, resident of village Singhpur,
Police Station Lauria at present Sathi Narkatiyaganj, District West
Champaran

4. Addl.Member, Board of Revenue, Bihar through the State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent Nos. 1 & 2: Mr. Akhileshwar Kr. Shrivastav, Advocate

For the Respondent No.4 : Mr. Rakesh Kumar Ranjan, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 21-10-2016 Despite repeated calls, none appears on behalf of the petitioner in support of the present writ petition, though the name of the learned counsel appearing on his behalf is printed in the daily cause list. However, I have heard the learned counsel appearing on behalf of the respondent nos. 1 and 2 as also the learned AC to GA 5 appearing on behalf of the respondent no.4.

The present writ petition arises out of a pre-emption 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 petitioner is pre-emptor. The respondent nos. 1 and 2 are purchasers and the respondent no.3 is vendor of the disputed land.

During the pendency of the writ petition, the respondent no.3 was reported to have died leaving behind his heirs

and legal representatives.

In above view of the matter, by order dated 28.03.2011 four weeks peremptory time was granted to the petitioner for taking steps for substitution vice deceased respondent no.3.

By office note dated 21.09.2016 it has been pointed out that aforesaid peremptory order passed on 28.03.2011 has not been complied with, as a result of which the writ petition as against deceased respondent no.3 has stood dismissed.

It is well settled that in absence of vendor, the claim of pre-emption raised on behalf of the parties cannot be gone into. Apparently, the present writ petition has become incompetent and cannot proceed further in absence of deceased respondent no.3 or his heirs and legal representatives.

In above view of the matter, this Court is left with no option, but to dismiss the writ petition as a whole on the ground of having become incompetent. It is, accordingly, dismissed. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

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