

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.510 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 15286 of 2006

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Sonelal Sah Son Of Asharfi Sah Resident Of Village - Kazipur Goriyara, P.S.
Karza, District - Muzaffarpur

.... Appellant/s

Versus

1. The State Of Bihar
 2. The Additional Member, Board Of Revenue, Govt. Of Bihar, Old Secretariat,
Patna
 3. The District Magistrate, Muzaffarpur
 4. The D.C.L.R. Sub - Division, West Muzaffarpur, Distt. - Muzaffarpur
 5. Smt. Nirmala Devi, Wife Of Chulhai Saw
 6. Raj Kumari Devi @ Pinki, Wife Of Rajesh Kumar
- Both Are Residents Of Village Kazipur Gorivara, P.S. Karza, District -
Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant : Mr. Arun Kumar Prasad, Advocate
For the State : Mr. Rajesh Kumar, AC to GP 3

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)
Date: 06-09-2016

Heard learned counsel for the parties.

The challenge in the present intra-court appeal is to the
order dated 24.01.2014 passed by the learned Single Bench by which



C.W.J.C. No. 15286 of 2006 filed by the respondents no. 5 and 6 has been allowed.

The appellant filed an application seeking preemption on the lands purchased by the respondents no. 5 and 6 under Section 16 (3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the 'Act'. The same was rejected by the D.C.L.R. but appeal before the Collector, Muzaffarpur succeeded and the preemption was allowed in favour of the appellant. The same was upheld by the Additional Member, Board of Revenue. The respondents no. 5 and 6 being aggrieved moved before this Court in C.W.J.C. No. 15286 of 2006 which was allowed by order dated 24.01.2014 giving rise to the present Letters Patent Appeal.

Learned counsel for the appellant submitted that the right of preemption having accrued to him, the learned Single Bench has wrongly interfered in the order as respondents no. 5 and 6 were not the boundary *raiyats* whereas he was. It was submitted that the daughter-in-law was the owner of the adjoining plot but in her own right which could not defeat the right accrued to the appellant under Section 16 (3) of the Act.

Having considered the matter, we do not find any merit in the present appeal. The Court of the D.C.L.R. had taken the view



that the daughter-in-law, after marriage, becomes part of the family and, thus, the land belonging to her cannot be said to be that of a third party or an outsider. We are in agreement with such view which has also found favour with the learned Single Bench.

In view thereof, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal which is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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