

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.770 of 2009

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Maharaj Pandey son of Late Ramdeo Pandey, resident of Village- Pandey Kauma, P.S. Mali, District Aurangabad.

.... Petitioner/s

Versus

1. Parshuram Pandey son of Late Rajbali Pandey, resident of Village- Pandey Kauma, P.S. Mali, District Aurangabad.
2. Rajeshwar Pandey
3. Ramchandra Pandey, both are sons of Late Bishewar Pandey, resident of Village- Pandey Kauma, P.S. Mali, District Aurangabad.
4. The State of Bihar.
5. The Additional Member, Board of Revenue, Bihar, Patna.
6. The Additional Collector, Aurangabad.
7. The D.C.L.R., Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmesh Kumar

For the Respondent No.1 : Mr. Bhanu Pratap Singh

For the Respondent No. 3 to 7: Mr. Kamlesh Kishore.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 04-05-2016 Heard the parties.

The petitioner is aggrieved by the order dated 29.08.2008 passed in Board Case No. 227 of 2004 by the respondent Additional Member, Board of Revenue, Bihar, Patna, as contained in Annexure-3, whereby after setting aside the order passed by the original authority and the appellate authority, the matter has been remitted back to the original authority, i.e. the respondent D.C.L.R., Aurangabad for deciding the case afresh on merits. Admittedly, the claim of pre-emption of the petitioner was allowed by a non-speaking and cryptic order, as contained in Annexure-1, which was mechanically affirmed by the appellate authority by the order as contained in Annexure-2.

From the pleadings of the parties, it appears that all the issues raised on behalf of the parties were not properly considered

either by the original authority or by the appellate authority. Therefore, the revisional authority, by the impugned order dated 29.08.2008 vide Annexure-3, has set aside the aforesaid two orders and remitted the matter back to the original authority for deciding the case afresh on merits. It is well settled that this Court seldom interferes with the order of remand, when the matter has to be decided afresh on merits.

In that view of the matter, this Court does not find any good ground to interfere with the impugned order. The writ petition is devoid of merit and is accordingly, dismissed.

However, it is clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question before the original authority in view of the order of remand.

(Birendra Prasad Verma, J)

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