

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.728 of 2009

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Yugal Rai, son of late Tukar Rai, resident of village-Khajuri, Pargana-Goa,
P.S.-Mashrakh, District-Saran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Member Board of Revenue, Old Secretariat, Patna
3. Additional Collector, Saran at Chapra
4. Deputy Collector Land Reforms, Marhaura Saran at Chapra.
5. Panch Deo Rai, son of late Manal Rai, resident of village-Khajuri, P.S.-
Mashrakh, District-Saran.
6. Smt. Kamalawati Devi, wife of Yamuna Rai, resident of village-Paiga,
Pargana-Goa, at present village-Khajuri, Pargana-Goa, P.S.-Mashrakh,
District-Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh No.-1, Adv.
For the Respondent nos.1to4 : Mr. Rakesh Kumar Ranjan, AC to GP-12
For the Respondent no.5 : Mr.Arun Kumar Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 29-04-2016 Heard learned counsel for the petitioner, learned AC to GP-12 appearing on behalf of the respondent nos.1 to 4 as also learned counsel appearing on behalf of the respondent no.5. However, none appears on behalf of the respondent no.6 despite valid service of notice upon her.

The present writ petition arises out of a 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 writ petitioner is the purchaser of the lands in question, fully detailed in paragraph 5 of the writ petition. The respondent no.5 is the pre-emptor of the vended plot and the respondent no.6 happens to be the vendor. The claim of pre-emption raised on behalf of the respondent no.5 was rejected by an order dated 27.07.1998 passed in Land Ceiling Case No.9 of 1997-



98 by the respondent D.C.L.R., Marhaura, Saran, as contained in Annexure-2 to the writ petition. The respondent no.5, being aggrieved by the aforesaid order, filed Land Ceiling Appeal Case No.38 of 1998, which was finally allowed by an order dated 15.09.2001 by the respondent Additional Collector, Saran at Chapra, as contained in Annexure-3 to the writ petition, and the order passed by the original authority was set aside. The petitioner, being aggrieved by the aforesaid appellate order, preferred Board's Case No.190 of 2001 under Section 32 of the Land Ceiling Act, which was finally dismissed by the impugned revisional order dated 05.03.2002 by the Additional Member, Board of Revenue, Bihar, Patna.

Learned counsel appearing on behalf of the petitioner submits that the impugned revisional order is a non-speaking and cryptic one and without considering the case of the parties the revision application filed on behalf of the petitioner has been dismissed mechanically by the Additional Member, Board of Revenue, Bihar, Patna.

Learned counsel appearing on behalf of the respondent nos.1 to 4 and learned counsel appearing on behalf of the respondent no.5 have contested the matter. The learned counsel appearing on behalf of the respondent no.5 submits that the petitioner has come before this Court after about 7 years of delay from the date of order passed by the revisional authority. Therefore, on that ground alone, the writ petition is liable to be dismissed. However, on query made by this Court, learned counsel appearing on behalf of the respondents have fairly conceded that the order passed by the revisional authority is a non-speaking and cryptic one.



After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that this matter requires re-consideration and fresh decisions by the revisional authority. Apparently, the impugned revisional order dated 05.03.2002 is a non-speaking and cryptic one. The revisional authority, being final court of facts, ought to have considered the case of the parties on merits and only thereafter final order could have been passed, but that has not been done in the present case. Such a non-speaking and cryptic order cannot be sustained in law.

For the reasons recorded above, the impugned revisional order dated 05.03.2002 passed in Board's Case No.190 of 2001 by the Additional Member, Board of Revenue, Bihar, Patna is hereby set aside and quashed, and the matter is remitted back to the respondent Member, Board of Revenue, Bihar, Patna with a direction to decide the aforesaid Board's Case No.190 of 2001 afresh either himself or by assigning to any other Additional Member, Board of Revenue, Bihar, Patna.

In order to expedite the matter, the petitioner as also the respondent no.5 are hereby directed to appear before the Member, Board of Revenue, Bihar, Patna within a period of one month from today with a certified copy of the present order, whereafter the matter shall be decided afresh strictly in accordance with law, but, before passing any final order, an opportunity of hearing must be given to all concerned including the respondent no.6.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law before the revisional authority, which may be available to them, with respect to the lands in

question and the orders passed by the original authority as also the appellate authority.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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