

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.415 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 17190 of 2010

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Ramdeo Rajak S/O Late Parsadi Rajak Resident Of Village- Kumharwa, P.O-
Chandpur, P.S And Anchal- Kadwa, District- Katihar.

.... Appellant/s

Versus

1. Shamshida Khatoon W/O Late Hafizur Rahman
2. Md. Safi Hafiz S/O Late Hafizur Rahman
3. Md. Abid Haris S/O Late Hafizur Rahman
4. Bushra Rahman
5. Sadaf Rahman
- Both Daughters of Late Hafizur Rahman
- All Resident of Village- Kumharwa, P.S and Anchal- Kadwa, District- Katihar.
6. The State of Bihar
7. The Minister, Department Of Revenue And Land Reforms, Main Secretariat,
Building, Patna.
8. The Collector, Katihar.
9. The Sub Divisional Officer, Barsoi, Katihar.
10. The Anchal Adhikari Kadwa, Within The District Of Katihar.
11. Smt. Urmila Devi W/O Sri Yogendra Prasad Bhagat Resident Of Village And
P.O- Chandpur, P.S- Kadwa, District- Katihar.

.... Respondent/s

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Appearance :

For the Appellant

:Mr. Suresh Prasad Sah @ Baranwal with
Mr. Umashankar Singh, Advocates

For the State

:Mr. Gyan Prakash Ojha, G.P. 22

For the Private Respondents No. 1 to 5 :Mr. Arun Prasad Ambashtha with

Mr. Binay Kumar Sinha, Advocates

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 12-07-2016

The present Letters Patent Appeal is directed against
an order passed by the learned Single Bench of this Court on 7th
January, 2014 in C.W.J.C. No. 17190 of 2010, whereby the allotment

of land made to the appellant by issuance of a *purcha* to re-settle the landless persons on the land declared surplus, was set aside by the learned Single Bench.

The facts in brief are that one Dayarani Bhagat, wife of Dukhiram Bhagat and Yadunandan Ram Bhagat, son of Panchkauri Ram Bhagat were co-owners of land in question appertaining to Khatian No. 402 measuring 0.38 decimals in khesra No. 1219 and 2.42 acres in Khesra No. 1221. Yadunandan Bhagat sold 1.21 acres on 05.02.1964 to Vijay Kumar Bhagat. Vijay Kumar Bhagat, in turn, sold land to the writ petitioner by two separate sale deeds in the years 1979 and 1981. There is subsequent transaction of the sale by the writ petitioner as well.

The learned Single Bench has recorded a finding that a land ceiling proceeding was initiated against Dayarani Bhagat alone in the year 1973. Since the writ petitioner is the purchaser of land from Yadunandan Bhagat against whom there was no land ceiling proceeding, therefore, the sale of land by Yadunandan Bhagat to Vijay Kumar Bhagat and later to the writ petitioner is of unencumbered land in respect of which no allotment can be made to re-settle the landless persons, since such land was never declared surplus.

Learned counsel for the appellant vehemently argued

that the finding recorded by the learned Single Bench that the land of Yadunandan Bhagat was unencumbered land is not a finding based upon facts. However, he could not point out any land ceiling proceeding initiated against Yadunandan Bhagat. In absence of any proceeding initiated for declaring the land of Yadunandan Bhagat as surplus, the sale affected by him, prior to initiation of land ceiling proceeding against Dayarani Bhagat, would not confer any right in the State to re-settle the landless persons on the land which were never declared surplus.

In view thereof, we do not find any merit in the present Letter Patent Appeal. It is accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

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