

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22575 of 2013

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Jai Kishore Sah, S/o Late Asharfi Sah R/o village Paktola P.S. Nanpur District-Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Director, General of Police, Patna
 3. The District Magistrate, Sitamarhi
 4. The Superintendent of Police, Sitamarhi
 5. The Deputy Collector Land Reforms, Pupri, Sitamarhi
 6. The Officer-in-Charge Nanpur District Sitamarhi
 7. Nathuni Dhankar
 8. Mahendra Dhankar
 9. Ram Bahadur Dhankar
- All sons of late Muneshwar Dhankar R/o Village Chakanti Tola Paktola P.S. Nanpur District-Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. BIRENDRA KUMAR

For the Respondent/s : Mr. AMARNATH DEO (SC-26)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 05-07-2016

Heard the counsel for the petitioner and the State.

The subject land measuring a total area of 13 decimals appertaining to R.S. Plot No. 4854 was sold by the respondent 2nd set. The father of the petitioner claimed his right of preemption against such sale. The court allowed the claim of the preemptor which remained intact in spite of challenges made thereagainst by the respondents. It is stated that the court of DCLR executed a sale deed in respect of the subject land in favour of the petitioner on 26.12.2003. The said execution of sale document by the

Court/Authority was again challenged unsuccessfully by the respondents.

The present writ application seeks a direction upon the respondents to remove the illegal possession over the subject land of the private respondents who are the vendors of the preemption proceeding. It is stated that in spite of the sale deed executed in favour of the father of the petitioner (since deceased) the possession has not been restored to the petitioner.

Provisions under Sections 16(3) of the Bihar Land Ceiling Act (for short "The Act") enables the Court to execute the sale deed in terms of the Order 21 Rule 34. Exercising the aforesaid power, the authority executed the sale deed. Now, recovery of possession is being prayed through this writ application.

Considering the provisions contained in the Act, in my view, the petitioner has option to approach the court of DCLR under the Bihar Land Dispute Resolution Act and or institute appropriate proceeding in the court of Competent Civil Jurisdiction for recovery of possession.

The counsel for the petitioner informs the court that an application has been filed in this regard before the DCLR. If that be the case, then the Court is inclined to dispose of the writ application permitting the petitioner to pursue the remedy which he has already

invoked before the respondent-Deputy Collector Land Reforms.

This Court, however, observes if any such proceeding is pending before the respondent-DCLR at the behest of the petitioner which is not hitherto disposed of then on presenting a copy of this order before the said court/forum, the same shall be disposed of as quickly as possible preferably within three months of such presentation.

The application stands disposed of.

(Kishore Kumar Mandal, J)

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