

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21868 of 2012

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1. Ramesh Yadav
 2. Jagarnath Yadav
 3. Madan Yadav
 4. Sriram Yadav
 5. Daroga Yadav
All sons of late Ram Sundar Yadav
 6. Kailash Yadav
 7. Ram Bilash Yadav
Both sons of late Raghunath Yadav
All 1 to 7 resident of village Jaijore, P.O. Jaijore, P.S. Andar, District Siwan.

.... Petitioners

Versus

1. The State of Bihar
2. Additional Member, Board of Revenue, Bihar, Patna.
3. District Collector, Siwan
4. Sub Divisional Officer, Siwan
5. Baban Chaudhary, Son of Faudar Chaudhary
6. Priya Ranjan Yadav, Son of Munni Chaudhary, both resident of village Jaijore, P.O. Jaijore, P.S. Andar, District Siwan.
7. Ramayan Kuwar, D/o- Rajbali Tiwary, wife of late Sitaram Pandey, R/v Kushahara, P.O. Nandpur, Amwari, Via and P.S. Andar, District Siwan.

.... Respondents

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

5 25-07-2017 Heard learned counsel for the petitioners as well as learned counsel appearing for the State. No one appears on behalf of the private respondents though notices have validly been served upon them.

The petitioners have prayed for quashing the order dated 28.03.2012 passed by the learned Additional Member, Board of Revenue, Bihar, Patna in Revision Case No. 155 of 2005



by which and where under learned Additional Member, Board of Revenue dismissed the aforesaid revision petition on the ground that petitioners of the aforesaid revision case failed to take step for issuance of notice to opposite party no. 3 of the aforesaid revision case. Admittedly, the present respondent no. 7 was opposite party no. 3 in Revision Case No. 155 of 2005.

It is an admitted position that respondent no. 5 and 6 filed petition under Section 16(3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 claiming their right of preemption in respect of land which had been purchased by the petitioners from respondent no. 7. The aforesaid admitted fact goes to show that respondent no. 7 is vendor and it is submitted on behalf of the petitioners that respondent no. 7 had never appeared before the courts below.

From perusal of the impugned order of Additional Member, Board of Revenue I find that Revision Case No. 155 of 2005 was pending in the revisional court for near about seven years and the petitioners of the aforesaid revision case failed to provide correct address of the opposite party no. 3 and that was the reason, the revisional court dismissed the revision case. In my view, the revisional court should have decided the matter on merit even in the absence of concerned opposite party who happened to



be vendor of the transferred land as the aforesaid opposite party had not appeared before the courts below. Moreover, in the aforesaid circumstance, this writ petition stands allowed and accordingly, the impugned order dated 28.03.2012 passed in Revision Case No. 155 of 2005 is quashed and the matter is remitted back to learned Additional Member, Board of Revenue, Bihar, Patna with direction that learned Additional Member, Board of Revenue shall decide the Revision Case No. 155 of 2005 on merit after giving opportunity to the petitioners for filing necessary requisites for issuance of notice to opposite party no. 3 of the aforesaid revision case. It is also made clear that if the revisional court fails to ensure the appearance of opposite party no. 3 of the aforesaid case, the revisional court may proceed in the absence of opposite party no. 3 (vendor) after giving reasons for proceeding in the matter in the absence of opposite party no. 3.

(Hemant Kumar Srivastava, J)

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