

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1384 of 2015

In

Civil Writ Jurisdiction Case No.4653 of 1990

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1. Rajeev Kumar, Son of Late Nago Yadav.
 2. Butan Yadav, Son of Late Nago Yadav.
 3. Bhukhan Yadav, Son of Late Nago Yadav.
 4. Navangia Devi, wife of Late Nago Yadav. All residents of village Thatha, P.S. Mansi, District Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Old Secretariat, Patna.
3. The Collector, Khagaria.
4. Land Reforms Deputy Collector, Khagaria.
5. Jitendra Yadav, son of Chhote Lal Yadav.
6. Chhote Yadav, son of Adhik Lal Yadav.
7. Umesh Yadav, son of Bara Lal Yadav Respondent Nos. 5 to 7, resident of village Thata, P.S. Mansi, District Khagaria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Amresh Kumar Sinha

For the Respondent/s : Mr. Shashi Bhushan Kumar

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 29-08-2017

Heard counsel for the appellants and counsel for the private respondents.

The application for pre-emption under Section 16 (3) of the Bihar Land Ceiling Act, 1961 was preferred by respondents no.5 and 6. The first forum i.e. DCLR, Khagaria found the pre-emptors to be not only adjoining raiyat but also co-sharer. Pre-emption was allowed. In an appeal before the Collector, the order was set aside.



But the revisional authority i.e. Additional Member, Board of Revenue found loopholes in the order of the Collector and not only reversed the order of the Collector but upheld the decision of the DCLR.

When the writ application was filed challenging the order of the Additional Member, Board of Revenue dated 05.11.1988, the learned Single Judge after evaluating the materials and evidence as well as the conclusive finding of the pre-emptors being adjoining raiyat, if not co-sharer, dismissed the writ application and now the appeal.

Effort is made by learned counsel for the appellants by making a submission before this Court that on a begotten and misleading kind of report of the Pleader Commissioner, which cannot be conclusive, the initial order was passed. If a fresh inquiry is ordered, the facts will tumble out.

In the Letters Patent Appeal we have to see the infirmity, which may have been there in the adjudicatory orders and especially last order passed by the revisional court. We do not find any material or evidence appearing from the appeal, which in any manner belies the finding of facts, which can upset the conclusions, which have been reached by either the DCLR or the



Additional Member Board of Revenue, including the learned Single Judge.

This Court is not willing to convert itself into the original forum of fact finding. Therefore, appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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