

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2040 of 2015

IN

Civil Writ Jurisdiction Case No. 8568 of 1995

- =====
1. Rajkumar Gosai @ Raj Kumar Goswami S/o Late Biswanath Gosai R/o Village & P.O. Saraiya, P.S. Barhara (Krishna Garh), District - Bhojpur
 2. Ram Kumar Goasai @ Ram Kumar Goswami S/o Late Biswanath Gosai R/o Village & P.O. Saraiya, P.S. Barhara (Krishna Garh), District - Bhojpur
 3. Nand Kumar Gosai @ Nand Kumar Goswami S/o Late Biswanath Gosai R/o Village & P.O. Saraiya, P.S. Barhara (Krishna Garh), District - Bhojpur
 4. Lakshmina Kunwar W/o Late Vijay Kumar Gosai @ Vijay Kumar Goswami R/o Village & P.O. Saraiya, P.S. Barhara (Krishna Garh), District - Bhojpur
- Appellants

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna
3. Additional Collector, Bhojpur at Arrah
4. Deputy Collector, Land Reforms, Sadar Arrah, District - Bhojpur
5. Chanamuni Kuer Wife of Beni Mahadev Gosain resident of village - Saraiya, P.O. Saraiya (Via - Gundi), P.S. Barhara (Krishna Garh), District - Bhojpur
6. Smt. Kusuma Devi Wife of Sri Madan Mohan Sharma resident of village - Saraiya, P.O. Saraiya (Via - Gundi), P.S. Barhara (Krishna Garh), District - Bhojpur

.... Respondents

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Appearance :

For the Appellant/s : Mr. Kumar Kaushik

For the Respondent/s : Mr. GP10-KUMARI AMRITA

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 31-01-2017

I.A. No.9059 of 2015 is allowed.

2. The wife of appellant no.4 is permitted to be substituted after death of her husband.

3. The battle has been going on since the year 1984 when a sale deed was executed and an application for preemption was filed claiming right of preemption being the adjoining raiyati over the



piece and parcel of land. The matter has a chequered history. At one time, the matter was decided against the preemptor both by the L.R.D.C., Sadar Arrah, District Bhojpur and then in appeal by Additional Collector. Thereafter both orders were reversed in favour of the preemptor, in revision by the Board of Revenue. It is this order of Board of Revenue, which got challenged in the writ application. The learned Single Judge set aside the order passed in revision, dismissed the right of preemption and upheld the order of the L.R.D.C. and the Additional Collector, Bhojpur at Arrah.

4. The learned Single Judge while dealing with the dispute between parties has taken note of the fact that even in the records the land in question has not been shown to be an agricultural land but a 'firni' land. There are several trees also standing on the said land and the dominant use of the land is not agriculture any more and many residential houses have been built in and around the land and even the land in question was bought with the object of building a dwelling house, which has been done.

5. At the pace of urbanization, which is going on in this country, even in villages looking at the growth of the population, the number of dwelling houses on the agricultural land is increasing day in and day out. A 1984 sale deed, therefore, in the last three decades has obviously undergone a change and no purpose would be served by



interfering with the order of the learned Single Judge overriding the finding by permitting consolidation of the land for the purposes of agriculture. The findings being what they are, the learned Single Judge has done no wrong by interfering with the order of the Member, Board of Revenue. In fact non-interference with the decision of the order of the learned Member, Board of Revenue would have been detrimental to the interest of the purchaser who already has a dwelling house on the plot of land. The order of the learned Single Judge is not required to be interfered with and the matter should rest now.

6. Appeal is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

S.Kumar/-

AFR/NAFR	NAFR
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