

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.710 of 2016

In

Civil Writ Jurisdiction Case No.2936 of 1991

Subash Kumar Singh @ Subhash Singh S/o Bishwanath Singh resident of
village - Sukulwan Khurd, Police Station, Gopalganj, Dist - Gopalganj.

... .. Appellant

Versus

1. The State of Bihar, through Chief Secretary, Govt. of Bihar, Patna.
2. Additional Member, Board of Revenue, Patna.
3. The Collector, Gopalganj.
4. The D.C.L.R. Gopalganj.
5. Sandhya Singh All sons and daughter of deceased
6. Vedmati Singh
7. Tribhuwan Singh
8. Dinesh Singh
9. Maheshwar Singh
10. Rameshwar Singh
11. Chhotelal Kushwaha son of deceased
12. Shiv Kumar Devi daughter of deceased
13. Tapeshwari Devi wife of Late Lallen Prasad Singh
14. Preety Kushwaha All 2(ii) to 2(v) sons and daughters of deceased son of Late
Lallen Prasad Kushwaha
15. Archana Kushwaha
16. Ambrish Kushwaha
17. Ujjawal Kushwaha
18. Sarjani Devi wife of Late Ishwar Chandra Singh All residents of village -
Sukulwan Khurd, Police Station - Gopalganj, Dist - Gopalganj.
19. Prasad Sah son of Laljee Sah resident of villae Sukulwan Khrud, Police
Station + Dist - Gopalganj.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Akhileshwar Pandey, Advocate Mr. Satendra Kumar Sinha, Advocate
For the Respondent State:		Mr. Kinkar Kumar, SC-9
For the Pvt. Respondent :		Mr. Raghav Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 05-04-2018

Heard counsel for the appellant and counsel for the
respondents.



Submission of the counsel for the appellant against the decision dated 02.03.2015 is that the appellant, who happened to be a purchaser, also had a right by virtue of right, title and interest derived by the said purchase and since preemption is a weak right, therefore, the writ application having been allowed in favour of the private respondents by the learned single Judge is required to be interfered with.

With due respect to the counsel for the appellant since preemption is a statutory right and so long it remains in the statute book and the person claiming preemption fulfills the requirement of the statute and the procedure laid down therein, it will be required to be considered and adjudicated upon.

In the earlier round of litigation, a plea was taken before the revisional authority, i.e. the Additional Member, Board of Revenue, that there was an exchange of land by the present appellant, which story was earlier not accepted because in a previous round of litigation, the writ Court set aside the order of the Additional Member, Board of Revenue observing as under :

“It is submitted on behalf of the petitioners that the Additional Member, Board of Revenue has committed a gross error in deciding the matter in favour of the vendee. It has been presumed by the Additional Member, Board of Revenue that the story of exchange put forward by the pre-emptor is true and on the aforesaid assumption has decided in favour of



respondent no. 5. The purchaser has not been able to substantiate the story of exchange by any documentary or oral evidence and as such the finding in favour of the respondent has to be set aside by this court. The order of the Additional Member, Board of Revenue is bad on the face of the record and has to be therefore, set aside.”

The matter was reconsidered by the revisional authority, who in absence of any evidence having been brought and having found that the petitioners were boundary raiyat on the two sides of land in question, therefore, a right of preemption did accrue in their favour.

In this background, if the writ application was allowed no error was committed by the learned single Judge, whose order is under challenge in the present appeal.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	N.A.F.R.
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