IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6288 of 2019

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1. Ram Bilash Yadav S/o Late Yaddu Yadav Resident of Village-Gagaur P.S. Sheikhpura,Dist.-Sheikhpura
2. Ram Pravesh Yadav S/o Late Yaddu Yadav Resident of Village-Gagaur P.S. Sheikhpura,Dist.-Sheikhpura

... ... Petitioner/s

Versus

1. The State Of Bihar through the Secretary,Land Reforms Department,Govt. of Bihar,Patna
2. The District Magistrate, Sheikhpura
3. The Additional Collector, Land Reform,Sheikhpura
4. The Deputy Collector, Land Reforms,Sheikhpura
5. The Additional Member, Board of Revenue,Bihar,Patna
6. Ram Sagar Singh S/o Late Sidheshwar Singh Resident of Village-Gagaur,P.S. Sheikhpura,dist.-Sheikhpura
7. Upendra Singh S/o Late Sidheshwar Singh Resident of Village-Gagaur,P.S. Sheikhpura,dist.-Sheikhpura
8. Nirmala Devi D/o Late Sidheshwar Singh Resident of Village-Gagaur,P.S. Sheikhpura,dist.-Sheikhpura
9. Shrikant Singh S/o Late Pradip Singh Resident of Village-Gagaur,P.S. Sheikhpura,dist.-Sheikhpura

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bharat Lal Mr.Rabindra Kumar
For the State	:	Mr.Md. Khurshid Alam (AAG-12) Mr. Majid Md. Khan, AC to AAG 12

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 02-07-2019 In a proceeding under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (for short 'the Act of 1961'), the predecessor-in-interest of respondent nos. 6 to 8 had claimed pre-emption against purchase of the land, appertaining to Plot

Nos.1784, 1785/3811 and 1785/3822 by the petitioners.

It is an admitted fact that the pre-emptor was mentioned in the boundary of the land in the sale deed, in question, based on which the claim of pre-emption was allowed by the Deputy Collector Land Reforms, which was affirmed upto the level of the learned Additional Member Board of Revenue, by an order dated 21.07.2010, passed in Case No. 140 of 2005. Several years after execution of the sale deed in favour of the purchaser, a rectification was made in the sale deed after the Deputy Collector Land Reforms had allowed the claim of pre-emption, based on the description of the boundary in the sale deed. The sale deed was executed on 25.05.1998 and was registered on 06.08.1998. The claim of pre-emption was allowed by the Deputy Collector Land Reforms on 05.12.2003, which was subsequently affirmed by the Additional Collector in the order dated 15.04.2005. After passing of the appellate order, the rectification was made in the sale deed on 20.07.2005.

The order of the Additional Member Board of Revenue dated 21.07.2010 became the subject-matter of challenge before the Bihar Land Tribunal (for short 'the Tribunal') in B.L.T. Case No. 1042 of 2016, which has been dismissed by order dated 06.08.2018, which order is under challenge in the present writ application

From the order of the learned Chairman of the Tribunal, which is impugned, it is evident that the petitioners had not impleaded the vendor as party respondent in the proceeding before the Tribunal. The Tribunal has opined that the vendor is a necessary party in the proceeding for pre-emption. The Tribunal has, however, gone into the merits of the case and, upon noticing that the purchaser, did not take steps for rectification of the boundary in the sale deed till the order was passed by the appellate authority, the revisional authority had rightly refused to reverse the orders of the Deputy Collector Land Reforms and the appellate authority, on the basis of the subsequent rectification deed.

Learned counsel for the petitioners has drawn my attention to the order of the learned Additional Member, Board of Revenue and has referred to the observation made in paragraph 7 thereof, wherein he has recorded that the claim of pre-emptor to be adjacent *raiyat* is based on the recital of boundaries in the sale deed before rectification and, as such, the order of the Deputy Collector Land Reforms dated 05.12.2003 for delivery of possession is in respect of that sale deed only. The learned Additional Member Board of Revenue has further observed that, as a natural corollary, the land for which possession is to be delivered, will be confined only to the land having the area and boundaries described in the sale deed before rectification. The Additional Member Board of Revenue has further recorded that the question as to what would happen if no such land exists, and if such question arises, shall have to be dealt with by the original court, i.e. Deputy Collector Land Reforms. Such observation made by the learned Additional Member Board of Revenue has not been questioned by respondent nos. 6 to 8.

Evidently, the Tribunal has upheld what has been held by the learned Additional Member Board of Revenue, which has finally determined the case of the parties on the question of right of pre-emption.

I do not find any legal infirmity in the order of the Tribunal, which is impugned in this writ application. The writ application is accordingly dismissed with the observation, as noted above.

(Chakradhari Sharan Singh, J)

HR/-

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