

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10418 of 2008

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SURENDRA PRASAD SINGH & ANR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR & ORS

... .. Respondent/s

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Appearance :

For the Petitioners	:	Mr. Girjanand Prasad
For the State	:	Ms. Kumari Amrita, G.P. 3
For Respondents 5 & 6	:	Mr. Arun Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

12 03-01-2019 Heard learned Counsel for the parties concerned.

The original petitioner, Sita Devi, died during the pendency of this application and has been substituted by her husband, Surendra Prasad Singh and Kaushal Kumar Singh, her son.

The petitioners have put to challenge the order, dated 12.11.2007, passed by the Additional Member, Board of Revenue, in Board Revision Case No. 274 of 2005, whereby he has affirmed the order, dated 06.10.2005, passed by the Additional Collector, Bhojpur, in Ceiling Appeal No. 24 of 2002-03/5 of 2005.

The said ceiling appeal arose out of a pre-emption proceeding, initiated by the original petitioner, Sita Devi, under Section 16 (3) of the Bihar Land Reforms (Fixation of Ceiling



Area and Acquisition of Surplus Land) Act, 1961, before the Deputy Collector Land Reforms, Bhojpur, Ara, giving rise to Ceiling Case No. 21 of 2001-02. The pre-emptor claimed the right of pre-emption on the ground that she was the adjoining raiyat of the land purchased by respondent nos. 5 and 6, having description Plot No. 1311, Khata No. 248, ad-measuring 2½ kathas, purchased by respondents 5 and 6. The Deputy Collector Land Reforms, Bhojpur, Ara, held the pre-emptor/original petitioner to be entitled to a right of pre-emption on the ground that she was an adjoining raiyat and that the land was agricultural land. After having recorded the finding to this effect, the Deputy Collector Land Reforms, Bhojpur, Ara, passed an order directing the purchasers/respondents 5 and 6 to execute registered sale deed in favour of the pre-emptor within the time prescribed therein by an order, dated 13.09.2002.

The Appellate Court of the Additional Collector, Bhojpur, in Appeal Case No. 24 of 2002-03/5 of 2005, reversed the findings of the Deputy Collector Land Reforms, Bhojpur, Ara, on two counts; firstly that the pre-emptor could not establish her case of her being the adjoining raiyat and that the land in question was not an agricultural land. The Revisional Court, i.e. the Additional Member, Board of Revenue, by the



impugned order, dated 12.11.2007, has affirmed the finding recorded by the Additional Collector, Bhojpur, in Appeal Case No. 24 of 2002-03/5 of 2005.

Learned Counsel appearing on behalf of the petitioners has made two-fold submissions. He has submitted that the claim of the purchasers that they themselves were the adjoining raiyat has wrongly been accepted by the appellate authority and the revisional authority. In support of this submission, he has referred to the deed, in question, itself, which does not describe the purchasers as adjoining raiyats. He has also submitted, based on the said deed, that the pre-emptor was not in a position to establish her case of the adjoining raiyat. He has, secondly, submitted that the plots have been described with '*Chak*' Number, which goes to suggest that the land, in question, was agricultural land and not residential in nature. He has submitted that had it been a residential land, instead of '*Chak*', '*Chakout*' ought to have been mentioned.

Learned Counsel appearing on behalf of the private respondents, on the other hand, has submitted that the appellate authority has rightly set aside the order passed by the Deputy Collector Land Reforms, Bhojpur, Ara, upon appreciating the materials on record, exercising statutory power of appeal, which



has rightly been upheld in revision. The findings recorded by the appellate authority and the revisional authority cannot be said to be suffering from perversity, requiring this Court's interference in a proceeding under Article 226 of the Constitution of India.

The order passed by the Additional Collector, Bhojpur, and the resolution of the Additional Member, Board of Revenue, on the question of presence of name of pre-emptor in the boundary of the land in question has been considered and explained by the appellate authority and the revisional authority also. Both of them have accepted the explanation submitted on behalf of the purchasers that it was the mistake of the Deed Writer to put the name of Surendra Singh instead of the vendee in the northern boundary of the land in question, as land of the northern boundary had been sold by the said Surendra Singh through sale deed, dated 15.02.2000, to the vendee. There is no plea taken in the writ application that the said finding recorded by the appellate authority and the revisional authority is erroneous. The appellate authority and the revisional authority, based on documents, reached the conclusion that the purchaser herself was an adjoining raiyat on the basis of the sale deed.

It has to be kept in mind that the Courts, exercising power under Article 226 of the Constitution of India, have the



duty to examine whether the authorities, exercising quasi-judicial power, have acted within their statutory limits and the decision making process is fair, in conformity with law. The findings recorded by a quasi-judicial authority, on the basis of appreciation of fact, can be looked into and interfered with in a proceeding under Article 226 of the Constitution of India, if such finding is either without any basis or contrary to material available on record. The Court exercising writ jurisdiction is not required to re-appreciate the evidence, which has already been appreciated by the quasi-judicial authorities.

In such view of the matter, I do not find any reason to interfere in view of the above noted discussion. This application stands dismissed.

There shall be no order as to costs.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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