

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3336 of 1999

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Mina Devi W/o Rabindar Singh, resident of village Nimi, P.S. Barbigha, District
Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihart
2. Member Board of Revenue, Bihar, Patna
3. Collector, Sheikhpura
4. C.D.L.R. Sheikhpura
5. Shri Raj Ballav Singh son of Late Mungeshwar Singh, Village Nimi P.S.
Barbigha, District Sheikhpura
6. Shri Kailash Singh son of Late Akhjhori Singh, village Sarba, P.S.
Barbigha, Sheikhpura

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Rai

For the State : Mr. R. Ahsan SCC

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 25-06-2019

This writ application has been filed for quashing of the order dated 23.11.1995, passed by the learned Additional Member Board of Revenue, Bihar in Case No. 57 of 1997, whereby he has allowed the revision application and thus after setting aside an order dated 11.02.1997, passed by the Collector in appeal proceeding, has confirmed the order of the Deputy Collector Land Reforms, Sheikhpura, allowing an application of pre-emption 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').

Respondent no.5 is the pre-emptor in the proceeding under Section 16(3) of the Act of 1961, whereas the petitioner is



the purchaser of the land, in dispute, appertaining to Khata No. 286, Khesra No.2394, admeasuring 15 ½ decimal situate in village Nimi, P.S. Barbigha in the district of Sheikhpura.

The registered sale deed was executed on 16.09.1991 by respondent no.6, whereafter an application under Section 16(3) of the Act of 1961 was filed by the pre-emptor, claiming himself to be an adjoining *raiyat* of the land, in question, and, therefore, entitled to transfer of the land in his favour in accordance with the provisions of the Act of 1961. The claim of pre-emption was resisted by the petitioner, mainly on the ground that her husband was the adjoining *raiyat* and, therefore, respondent no.5 could not successfully maintain his claim that the petitioner is not an adjoining *raiyat* of the land, in question. The Deputy Collector Land Reforms, Sheikhpura allowed the case of pre-emption by order dated 19.04.1996, holding that the purchaser could not claim to be an adjoining *raiyat* and refused to accept the plea of the purchaser of being an adjoining *raiyat* on the plea that the land, adjacent to the land, in question, stood in the name of her husband. Accordingly, an order was made by the Deputy Collector Land Reforms for re-conveyance of the land in question in favour of respondent no.5. An appeal was preferred by the petitioner against the said order of the Deputy



Collector Land Reforms dated 19.04.1996, which was allowed by an order dated 11.02.1997, accepting the plea of the purchaser that he was an adjoining *raiyyat* for the reason that a land in the name of her husband stood adjacent to the purchased land. The Collector, accordingly had set aside the order of the Deputy Collector Land Reforms by order dated 11.02.1997, whereby the right of pre-emption under Section 16(3) of the Act of 1961 was allowed. The said order dated 11.02.1997 came to be challenged by way of a revision application before the Member Board of Revenue, giving rise to Case No. 57 of 1997, which has been allowed by the impugned order dated 05.03.1999. Hence this writ application.

I have carefully perused the pleadings on record and the orders passed by the Deputy Collector Land Reforms, the Collector, Sheikhpura and the Additional Member Board of Revenue.

It appears from the impugned order of the Additional Member, Board of Revenue that the petitioner's claim of being adjoining *raiyyat* on the plea that there was land adjacent to the purchased land, in the name of Ravindra Singh, has been turned down.

I do not find any legal infirmity in the impugned order,



passed by the learned Additional Member Board of Revenue. Even if it is accepted that there was a land adjacent to the purchased land, standing in the name of the petitioner's husband, she could not claim herself to be an adjoining *raiyat* so as to resist the claim of pre-emption under Section 16(3) of the Act of 1961.

I am mindful of the fact that Section 16(3) of the Act of 1961 has since been deleted by the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019. However, since the final order under the Act of 1961 was passed by the Additional Member Board of Revenue in 1999 itself, the said amendment shall have of no consequence, for the purpose of the present proceeding.

This writ application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	Nil
Uploading Date	19. 07.2019
Transmission Date	

