

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.364 of 2013

In
Letters Patent Appeal No.255 of 2011

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Upendra Chaudhary Son of Sri Ram Shrestha Chaudhary , resident of Village - Kutubpur Dumari, P.S. Hajipur Sadar, P.O. Minapur Rai, District- Vaishali Hajipur .

... .. Petitioner/s

Versus

1. Mukesh Chaudhary Son of Sri Ram Shrestha Chaudhary , Resident of Village -Kutubpur Dumari , P.S. Hajipur Sadar , P.O. Minapur Rai, District- Vaishli Hajipur

... .. Petitioner -Opposite Party 1st set

2. The State of Bihar
3. The Board of Revenue Bihar Patna through its Additional Member Mr. C.Ashok Bardhan , I.A.S. , Ol
4. The Collector , District Vaishali at Hajipur.
5. The Land Reforms Deputy Collector , District Vaishali at Hajipur.
6. Sri Amresh Kumar Chaudhary Son of Late Madhu Sudan Chaudhary , resident of Village - Kutubpur Dumari, P.S. Hajipur Sadar , P.O. Minapur Rai , District- Vaishali Hajiipur

... .. Opposite Party 2nd set

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar

For the Opposite Party/s : Mr.Rajiv Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 27-02-2019

This application has been filed by the petitioner under Section 114 of the Code of Criminal Procedure for review of the order dated 26th July, 2013 passed in L.P.A No. 255 of 2011 whereby the order dated 13th September, 2010 passed by the learned Single Judge in C.W.J.C No. 5192 of 2014 has been set



aside and the matter has been remitted back to the Court of Deputy Collector Land Reforms, Hazipur Vaishali to hear and decide the Land Ceiling Case No. 52 of 2001-02 afresh after hearing the parties and giving a finding on the plea taken by the appellant of being a co-sharer in the land in question.

2. Learned counsel appearing for the petitioner submitted that the order under review is bad in law as also on facts. He contended that while passing the order the petitioner was not heard. The appellant had produced the genealogical table for the first time in writ petition. The same does not show existence of jointness in the family of the vendor and the purchaser on the date of sale. He pleaded that the order passed by the Division Bench is not sustainable as the appeal could not have been allowed merely on account of non consideration of the plea taken by the appellant by the authorities below.

3. Having heard learned counsel for the petitioner, we find from the record that despite valid service of notice, the petitioner, who was respondent no. 5 in the letters patent appeal, had failed to appear before the court. Hence, this court heard the appellant and after perusing the record passed the order allowing the appeal and remitting the matter back to the Deputy Collector. The Division Bench clearly opined that a plea was taken by the



appellant before the Deputy Collector Land Reforms that he is the co-sharer in the land, the Deputy Collector did not give any attention to the said plea nor he recorded any finding in the respect of the said plea and allowed the pre-emption application filed by the petitioner. The petitioner has not pleaded before us that no such plea was taken before the Deputy Collector, Land Reforms and the other authorities. He has failed to point out any error in the order, apparent on the face of the record, warranting a review. He has tried to argue before us the case on merit in order to establish that the Division Bench while passing the order dated 26.07.2013 did not appreciate the facts and law correctly. It is well settled position in law that the review proceedings are not by way of an appeal. Such jurisdiction can be invoked only in cases of patent error and not for the purpose of rehearing of the dispute.

4. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

(Chakradhari Sharan Singh, J)

pradeep/

AFR/NAFR	NAFR
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