

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15635 of 2019

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Tarkeshwar Mishra Son of Late Ramayan Mishra, Resident of Village- Ghoghwaliya, P.O.- Sawaridih, P.S.- Kopa, District- Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chairman, Bihar Land Tribunal, Patna.
3. The Commissioner, Saran Division, Chapra.
4. The Collector, Saran, Chapra.
5. The Deputy Collector, Land Reform, Saran.
6. The Circle Officer, Kopa.
7. Indu Kumari, W/o Late Shailesh Mishra, Resident of Village- Ghoghwaliya, P.O.- Sawaridih, P.S.- Kopa, District- Saran, Chapra.
8. Binod Mishra, Son of Late Suresh Mishra, Resident of Village- Ghoghwaliya, P.O.- Sawaridih, P.S.- Kopa, District- Saran, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Subhash Kumar
For the State	:	Mr.Raj Kishore Roy (GP-18)
		Ms. Surekha Kumari, AC to GP 18

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 02-08-2019 In a pre-emption 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'), the petitioner was a pre-emptor, claiming his right on the ground of being an adjoining *raiyat*. His claim has been finally rejected by the impugned order dated 23.11.2018, passed by the learned Chairman, Bihar Land Tribunal, Patna in BLT Case No. 333 of 2016.



Learned counsel, assailing the impugned order, has made two-fold submissions. He has submitted that, admittedly, the petitioner is an adjoining *raiyat* of the vended land, which aspect was deliberately concealed in the sale deed. He has further contended that the findings recorded by the authorities under the Act and the Tribunal that the purchaser was landless, are without any basis.

On perusal of the impugned order, it can be easily noticed that the courts of the Deputy Collector Land Reforms, Additional Collector and the revisional court concurrently held that the petitioner was not an adjoining *raiyat* of the vended land. The nature of the land has been held to be non-agricultural. It is also evident that the purchaser was found to be holding only 15 katha two dhur in his name and accordingly he was held to be a landless person.

I do not find any illegality in the impugned order, for the reasons that no right of pre-emption can be invoked, when the purchaser of an agricultural land himself is landless. The definition of landless, for the purpose of the Act, has been dealt by a Division Bench of this Court in the case of **Leela Devi Vs. The State of Bihar and another**, reported in **2014 (2) PLJR 177**.



Considering the said Division Bench decision, I do not find any legal infirmity in the finding recorded by the revenue courts and the learned Chairman of the Tribunal that the purchaser, being a landless, the claim of his pre-emption could not be maintained against a land purchased by him.

I do not find any merit in this writ application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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