

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12463 of 2019

Suma Devi @ Sumiya Devi W/o Late Bhumi Singh Resident of Village-
Vishnupur,Mali,Ward No.2,Block and Circle-Beldaur,Dist.-Khagaria
... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reform Department, Govt. of Bihar, Patna
2. The Divisional Commissioner, Munger
3. The District Magistrate cum Collector, Khagaria
4. The D.C.L.R. Gogari, Dist.-Khagaria
5. The Additional Collector, Khagaria
6. The Circle Officer, Beldaur Anchal, Dist.-Khagaria
7. Yogendra Singh S/o Late Shukhdeo Singh Resident of Village-Mali Hazi Nagar Tola Vishanpur Under Anchal and Block-Beldaur, P.S. Beldaur, Dist.-Khagaria

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh
For the Respondent/s : Mrs. Sangh Mitra Ghosh, AC to GP-15

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 24-06-2019 Invoking the provisions of Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, an application was filed by respondent No. 7, claiming his right of preemption, consequent upon sale of land in favour of one Umesh Singh, giving rise to Preemption Case No. 8 of 1994.

The claim of preemption was allowed in favour of respondent No. 7 by an order dated 27.05.1995 passed by the Deputy Collector Land Reforms, Gogari. The vendor of Umesh Singh, namely, Nageshwar Singh, was, admittedly, full brother



of respondent No. 7. The Deputy Collector Land Reforms found that the vendee, Umesh Singh, was neither co-sharer nor an adjoining raiyat of the land. Accordingly, after recording a finding, that respondent No. 7 was co-sharer and adjoining raiyat of the vendor Nageshwar Singh, allowed the claim of preemption. Against the order, dated 27.05.1995, the purchaser, Umesh Singh, had filed appeal before the Additional Collector, Khagaria, which was dismissed on 23.02.2004.

The petitioner claims that during the pendency of the preemption application, she had purchased the land from Umesh Singh and since she was not impleaded as party in the preemption proceeding, the orders passed by the Court below need interference.

Though, the case has been listed with certain defects, pointed out by the stamp reporter, considering the frivolous claim raised on behalf of the petitioner, this application is being disposed of by the present order, ignoring the said defects, after hearing learned counsel appearing on behalf of the petitioner.

The petitioner is relying on a sale deed executed by Umesh Singh in respect of the land in question in her favour during the pendency of the preemption proceeding. It is an admitted fact that her vendor had filed an appeal against the



order of Deputy Collector Land Reforms, which was dismissed. This writ application has been filed more than 15 years after the Additional Collector had dismissed the appeal. The explanation for delay given in the writ application is not at all convincing.

Mr. Shekhar Singh, learned counsel appearing on behalf of the petitioner, has submitted that Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, has since been deleted by the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019, therefore, the orders, passed under Section 16(3) of the Act, have become meaningless. The said submission is completely devoid of any merit. The order, passed under Section 16(3) of the Act, attained finality in 2004 itself. The amendment brought in 2019 will have no application for determining the rights of the parties, finally crystallized before the said amendment.

This application is accordingly dismissed for the reasons noted above.

(Chakradhari Sharan Singh, J)

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