IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.158 of 2018

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1. Parwati Devi wife of late Bhupendra Prasad Rai @ Bhupindra Rai
2. Rahul Kumar
3. Divyanshu Kumar Rai
   both are sons of Late Bhpendra Prasad Rai @ Bhupindra Rai
4. Ragni Kumari daughter of late Bhupendra Prasad Rai @ Bhupindra Rai
5. Maha Sunder Devi D/o Late Ram Parichhan Rai
6. Rita Devi @ Reta Devi D/o Late Ram Parichhan Rai
7. Mala Devi Wife of Late Birendra Pd Rai @ Birendra Rai
8. Nilu Kumari D/o Late Birendra Pd Rai
9. Dhiraj Kumar
10. Guddu Kumar son of Late Birendra Pd Rai
11. Jagdish Rai son of Late Bishundeo Rai
    All are resident of village Panapur Patar P.S. – Mahua, District – Vaishali.

... ... Petitioners-Appellants-Petitioners

Versus

1. The Member Board of Revenue, Bihar, Patna.
2. The Additional Collector, Vaishali at Hajipur.
3. The Deputy Collector Land Reforms, Vaishali at Hajipur.
4. Mina Devi Daughter of Late Ram Briksh Rai
5. Kusheshwar Rai S/o Late Ram Briksh Rai
6. Singheshwar Rai S/o Late Ram Briksh Rai
7. Sita Devi Daughter of Late Ram Briksh Rai
8. Bhola Rai son of Late Bhonu Rai
   Respondent no. 4 to 8 are resident of village – Panapur Patar, P.S – Mahua, District – Vaishali.
9. Dharkhan Singh S/o Raunak Singh, resident of village – Mirpur Patar, P.S-Mahua, District – Vaishali.

... ... Respondents-Respondents-Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Hitesh Suman, Advocate Mrs.Usha Kumari, Advocate
For the Respondent/s	:	Mrs. Nutan Sahay, AC to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

5 16-01-2019 **Re.-I. A. No. 8337 of 2018**

Heard Mr. Hitesh Suman, learned counsel for the applicants and Mrs. Nutan Sahay, learned counsel for the State of Bihar.

The limitation petition is allowed as sufficient cause has been shown in support of the said application. The review application shall be treated to be within time.

Re.- Civil Review No. 158 of 2018

Heard Mr. Hitesh Suman, learned counsel for the petitioners and Mrs. Nutan Sahay, learned counsel for the State.

The present review application has been preferred seeking a review/recall of the order dated 20.09.2017 passed by the Hon'ble Division Bench of this Court in L.P.A. No. 1383 of 2015. By the order of which the review has been sought for, the Hon'ble Division Bench was pleased to refuse to interfere with the order of the learned Single Judge of this Court.

Before we proceed to consider the review application, it is worth mentioning that the petitioner in the present case had moved the Hon'ble Supreme Court in Petition for Special Leave to Appeal (C) 373-374 of 2018 against the judgment and order dated 20.09.2017 of which review has been sought for. The Special Leave to Appeal came to be disposed of when learned counsel representing the petitioner before the Hon'ble Supreme Court sought permission to withdraw the petition with liberty to file review petition before this Court. The Hon'ble Supreme Court while granting permission as prayed has given observation that "The Special Leave Petitions are dismissed as withdrawn with liberty as mentioned above."

In course of argument learned counsel for the petitioners has placed before us two grounds mentioned in the review application as Ground No. 7 and 12 which reads as under :-

> "VII. For that the Hon'ble single judge had not considered this aspect of the matter that the Member Board of revenue was not justified in law in allowing the revision at the instance of Preemptors notwithstanding the plea taken at the instance of Appellants that the entire proceeding by way of appeal at the instance of Preemptors had been vitiated and rendered a nullity and could not be validated merely by making the transferor Party at the revision Stage, when in accordance with Form LC 13 and the Bihar Land Ceiling Rules, 1963.
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> XII. For that the Hon'ble single Judge as well as Division Bench had not considered this aspect of the matter that the member Board of revenue was justified in law in allowing the revision application

> when both the DCLR(Respondent no. 4) as well as Additional Collector(Respondent no.-3) held on a critical scrutiny and comparison of Maps both cadastral survey map as well as revisional survey map that the un numbered plot on the northern boundary of RSP no 378, 379 and 380 the transferred plots in favour of the appellants was not a road or rasta but was the part and parcel of plot no. 378, 379 and 380 the transferred plots in favour of the appellants."

While pressing the above said grounds learned counsel submits that the Board of Revenue being the revisional court was not justified in interfering with the findings of the facts recorded by the Deputy Collector Land Reforms (hereinafter in short 'DCLR') and the Collector (hereinafter referred to as 'the Appellate Authority'). It is submitted that both the DCLR and the Appellate Authority had recorded a finding to the effect that the present petitioners were holding a part of the three plots which were purchased by them and there was no 'Rasta' in between the purchased plots and the plots held by these petitioners. It is submitted that once these findings were recorded, there was no reason to disturb the said findings and record a separate finding by the revisional authority.

On the other hand, learned counsel representing the State has drawn our attention towards the order passed by the DCLR available at Annexure-3 to the writ application. Learned counsel submits that at the time of filing application for preemption, the applicants, who were now private respondent before us, had specifically claimed that they are boundary raiyats of Plot Nos. 270 and 271 which are in the boundary of the purchased plots and it would be evident from the continuous Khatiyan and survey map.

Learned counsel submits that even before the DCLR it was not a stand of the present petitioners that the preemptors are not the owners of Plot Nos. 270 and 271, the case of the present petitioners as placed before the DCLR was that the Plot nos. 270 and 271 belong to the Raiyat of these petitioners. It is, thus, submitted that once this plea was found to have been taken at the earliest opportunity by the private respondents and then there were sufficient materials placed before the Board of Revenue to demonstrate that these petitioners were the actual owner and in possession of the plot nos. 270 and 271, the Board of Revenue being the final fact finding forum was fully justified in reversing the findings of the DCLR and the Appellate

Authority. It is, thus, submitted that no ground for review has been made out.

It is further submitted that as regards non-joining of the transferor at the initial stage, the ground taken by the petitioner is wholly misconceived and inasmuch as it transpires from the impugned order itself that earlier application was made to add transferor as a party but the same was rejected. However, at the revisional stage the transferor was allowed to be added as a party.

Be that as it may, it is one of the submissions of the learned counsel for the State that the absence of the transferor before the Appellate Authority would not make the order passed by the revisional authority null and void.

We have heard learned counsel for the parties at length. In course of argument learned counsel for the petitioners could not place any material before us to show there is any error apparent on the face of the records. We have perused the order passed by the DCLR, the Appellate Authority, the Revisional Authority as well as the learned Single Judge once again. The view taken by the learned Single Judge as well as the Hon'ble Division Bench are found to be based on the materials available on the record.

The review application has, thus, no merit. It is accordingly dismissed.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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