

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13412 of 2019

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Mithilesh Rai Son of Late Nanhak Rai R/o Village-Panapur, P.S.-Hajipur
Sadar, P.O.-Panapur, District-Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reform Department, Government of Bihar, Old Secretariat, Bailey Road, Patna
2. The Commissioner Tirhut Division at Muzaffarpur
3. The District Magistrate cum Collector Vaishali at Hajipur
4. The S.D.O. Vaishali at Hajipur
5. The Deputy Collector Land and Revenue (DCLR), Vaishali at Hajipur
6. The Circle Officer (C.O.) Vaishali at Hajipur
7. Smt. Chandrakala Devi Wife of Garibnath Pandit R/o Village-Panapur, P.S. Hajipur, P.O.-Panapur, District-Vaishali
8. Shiv Chandra Rai S/o Late Nanhak Rai R/o Village-Panapur, P.S. Hajipur, P.O.-Panapur, District-Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sarita Bajaj
For the Respondent/s : Mr.Md. Khurshid Alam (AAG-12)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 17-07-2019 Heard learned counsel for the parties.

2. An order dated 27.09.2018, passed by the learned Chairman, Bihar Land Tribunal, Patna in BLT case No. 221 of 2018, whereby he has dismissed the petitioner's application, is under challenge. The said BLT Case No. 221 of 2018 arose out of a pre-emption proceeding under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. Respondent No.7 was the purchaser of



land through sale deed executed on 06.12.2010. The petitioner claimed right of pre-emption on the ground of being an adjoining raiyat and co-sharer in respect of the vended land. The claim of pre-emption was resisted by the vendee and was initially rejected by the Deputy Collector Land Reforms. The appellate authority, however, allowed the claim of the pre-emption and set aside the order passed by the Deputy Collector Land Reforms. The revisional authority, on the other hand, had restored the order of the Deputy Collector Land Reforms after setting aside the appellate order and, thus, disallowed the petitioner's claim of pre-emption. Against the order of the revisional authority, the application before the Bihar Land Tribunal came to be filed, giving rise to BLT Case No. 221 of 2018, which has been dismissed by the impugned judgment and order dated 27.09 2018.

3. It is significant to note from the judgment and order of the Tribunal that there was specific finding recorded by the Deputy Collector Land Reforms that the purchaser/respondent No.7 was a landless person and, there was no evidence produced by the petitioner, which could contradict the claim of the purchaser of being a landless person. Learned Chairman has taken note of the decision of this Court reported in **1997(2)**



PLJR 287 and **2018(1) PLJR 542** that the claim of pre-emption could not have been allowed.

4. A Division Bench of this Court in case of **Leela Devi Vs. State of Bihar and another** reported in **2014(2) PLJR 177** has clearly held that right of pre-emption under Section 16(3) of the Act cannot be maintained against the purchase made by a landless person.

5. I do not find any illegality requiring this Court's interference.

6. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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