

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2111 of 2019

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1. Akedan Khatoon W/o Late Bipat Mian R/o Village - Nilo Rukundpur, P.S. Tisiauta, District - Vaishali.
 2. Md. Asharaf S/o Late Bipat Mian R/o Village - Nilo Rukundpur, P.S. Tisiauta, District - Vaishali.
 3. Md. Israfil S/o Late Bipat Mian R/o Village - Nilo Rukundpur, P.S. Tisiauta, District - Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna Bihar
3. The Commissioner, Tirhut Division, Muzaffarpur
4. The District Magistrate-cum-Collector Vaishali
5. The Deputy Collector Land Reforms, Mahua Mahua, District Vaishali
6. The Circle Officer, Patepur Bihar
7. The Sub-Registrar, Registration Office, Mahua Bihar
8. The Bihar Land Tribunal, Patna Through its Registrar
9. The Registrar, Bihar Land Tribunal, Patna Bihar
10. Nagendra Nath Chaudhary S/o Late Bind Prasad Chaudhary R/o Village - Nilo Rukundpur, P.S. Tisiauta, District - Vaishali.
11. Ravindra Nath Caudhary S/o Late Bind Prasad Chaudhary R/o Village - Nilo Rukundpur, P.S. Tisiauta, District - Vaishali.
12. Md. Nasir S/o Md. Ganaur R/o Village - Nilo Rukundpur, P.S. Tisiauta, District - Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar
For the Respondent/s : Mr. Raj Kishore Roy (Gp18)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 06-02-2019 Heard learned counsel for the parties.

The petitioners are aggrieved by an order dated 25.10.2018 passed by the learned Chairman, Bihar Land Tribunal, Patna (hereinafter referred to as 'the Tribunal') in Appeal No. 32 of 2018. It appears from the impugned order that the petitioners have filed an application for restoration of BLT



Token No. 1304 of 2015, which had stood dismissed for default for the failure to remove the defects. Nearly three years thereafter, the petitioners filed BLT Appeal No. 32 of 2018 with a prayer for condonation of delay in filing the appeal. It transpires from the order impugned that the only plea which was taken on behalf of the petitioners before the Tribunal was that they were not made aware by the learned counsel about dismissal of their case for default. It further transpires that the Tribunal, apart from considering the petitioners' case for restoration filed after three years, has also examined the merits of the case. The petitioners are the pre-emptors in respect of sale deed, which was executed on 04.03.2005. On the said date, three sale deeds were executed by the land owner transferring part of the plot in question, out of which two sale deeds were executed in the name of the purchaser of the pre-emption case and one sale deed was executed in the name of the wife of the purchaser. The Tribunal has noticed the fact in the impugned judgment that the pre-emption application was filed in respect of only one of the sale deeds and accordingly, the Tribunal, based on the materials available, has held that that remaining part of the same plot, which was subject matter of the Ceiling proceeding, was purchased by the purchaser from the land



owners. It is noteworthy that the petitioners claimed themselves to be adjoining *raiyat* in respect of only one part of the plot transferred by one sale deed, which was subject-matter of the pre-emption proceeding. After having held that the purchaser himself became adjoining *raiyat*, rejected the claim of the pre-emption of the petitioners. The Tribunal has further noted the fact that the land in question was subsequently transferred by the vendor in favour of a third person after cancellation of the sale deed, which was not challenged by the vendee. After having considered this aspect of the matter, the Tribunal came to a conclusion that the sale deed over which the pre-emption was being claimed had, in fact, become ineffective.

Learned counsel, appearing on behalf of the petitioners, has submitted that the subsequent cancellation of sale deed and transfer of same piece of land in respect of which, the pre-emption application was filed by the vendor, was apparently in an attempt to defeat the statutory right of the petitioners of pre-emption under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961.

In my view, however, the reasons recorded by the Tribunal in the impugned order for not interfering with the order



of the revisional authority are germane. The situation completely changed once the vendor executed another sale deed in respect of the same piece of land, which was subject matter of pre-emption proceeding. As a matter of fact, because of subsequent development, the petitioners' application for pre-emption completely lost its efficacy. I do not find any illegality in the impugned order.

This writ application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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