

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11288 of 2018

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Smt. Sharda Devi @ Babita Devi W/o Ram Dular Mandal R/o village-
Damodarpur, P.S.- Akbarnagar, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner, Bhagalpur.
2. The Collector, Bhagalpur.
3. The Deputy Collector Land Reforms Bhagalpur.
4. The Circle Officer Sultanganj, Bhagalpur.
5. Kulbhushan Sharma S/o Late Dinesh Sharma R/o village- Fatehpur, P.S.-
Nathanagar, District- Bhagalpur.
6. Bhudeo Thakur S/o Basu Thakur R/o village- Fatehpur, P.S.- Nathanagar,
District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Adv.
	:	Mr. Alok Kumar Jha, Adv.
	:	Mr. Atal Bihari Pandey, Adv.
For the Respondent/s	:	Mr. Rishi Raj Sinha- S.C. 19

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 23-05-2019

Heard the parties.

2. This writ petition has been filed for setting aside the order dated 13.03.2018 passed by Bihar Land Tribunal, Patna, in BLT Case No. 89 of 2018 by which the case of petitioner has been dismissed as being not maintainable.

3. Petitioner had purchased a piece of land from vendor respondent No. 6 by a registered sale deed dated 19.11.1990 against which respondent No. 5 (Pre-emptor) filed an application under Section 16(3) of Ceiling Act on the ground of



adjoining raiyat of the purchased land before the D.C.L.R. who allowed the application of respondent No. 5 (Pre-emptor). Petitioner preferred land Ceiling Appeal No. 17 of 2006-07 before the Collector, Bhagalpur who dismissed the appeal of petitioner against which he filed 2nd appeal before the Divisional Commissioner being Bhagalpur Revision (Land Ceiling) Case No. 3 of 2015-16 which was also dismissed by order dated 27.07.2017 against which petitioner had filed a case before the Bihar Land Tribunal under the provisions of Bihar Land Tribunal Act, 2009 on 21.09.2017.

4. Petitioner had earlier filed a case vide T.M.P./2017/867 on 21.09.2017 against the impugned order, however, many defects were pointed out by the office, as such, petitioner filed another case against the same impugned order giving rise to BLT Case No. 89 of 2018 which was dismissed on 13.03.2018 as not maintainable. It has been submitted on behalf of petitioner that due to wrong advise 2nd case was filed without removing the defects in 1st case and mistake is bonafide and in his 2nd case also he has mentioned filing of previous case against the same order as such there was no misrepresentation or suppression of any fact.

5. After hearing the parties, this Court finds that the



1st case filed by petitioner was neither registered nor admitted and no case Number was provided and same remained defective and instead of removing the defects petitioner filed 2nd case against the same impugned order on wrong advise. If a case is dismissed for default or dismissed for any other reasons, aggrieved party can file a petition to restore said case but he is precluded to file another case for same cause of action.

6. In facts and circumstances of present case, petitioner is granted liberty to either pursue his 1st case and rectify its defects and get the case registered and admitted, if same is still pending otherwise the tribunal may consider the 2nd case as a fresh case filed by petitioner as previous case was neither registered nor admitted nor any case number was provided.

7. As a result, the order dated 13.03.2018 passed in BLT Case No. 89 of 2018 is set aside and Tribunal is directed to treat the 2nd case being BLT Case No. 89 of 2018 as maintainable.

8. The writ petition is allowed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.06.2019
Transmission Date	N.A.

