

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.285 of 2018

In

Letters Patent Appeal No.2308 of 2016

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1. Deepak Kumar Gupta, Sons of Late Thakur Prasad, resident of village-Gorakha, P.O- Garakha, P.S- Garakha, District- Saran
 2. Ashok Kumar Gupta, sons of Late Thakur Prasad, resident of Village-Gorakha, P.O- Garkha, P.S- Garakha, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
 2. The Additional Member, Board of Revenue, Bihar, Patna
 3. The Additional Collector, Chapra, Saran
 4. The Deputy Collector, Land Reform, Chapra, Saran.
-Opposite party 1st set/ Respondent
5. Ramesh Kumar Singh
 6. Umesh Kumar Singh
 - Both sons of Late Harbansh Narain Singh
 7. Bachhi Devi w/o late Kameshwar Singh
 8. Kumar Bhargav
 9. Kumar Gaurav
 - Both sons of Late Kameshwar Singh
 10. Manju Kumari Singh
 11. Indu Devi
 12. Gyanti Devi
- All daughter of Late Harbansh Narain Singh, all are resident of Village-, P.O- Garakha, P.S- Garakha, District- Saran

.....Opposite party 2nd set/Appellant-Petitioner

with

Civil Review No. 286 of 2018

In

Letters Patent Appeal No.2309 of 2016

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-
1. Ashok Kumar Gupta, sons of Late Thakur Prasad, resident of Village-Gorakha, P.O- Garkha, P.S- Garakha, District- Saran.
 2. Deepak Kumar Gupta, Sons of Late Thakur Prasad, resident of village-Gorakha, P.O- Garakha, P.S- Garakha, District- Saran

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All daughter of Late Harbansh Narain Singh, all are resident of Village-,
P.O- Garakha, P.S- Garakha, District- Saran

.....Opposite party 2nd set/Appellant-Petitioner

Appearance :

(In Civil Review No. 285 of 2018)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv.

For the Respondent/s : Mr. Md. Khurshid Alam, AAG 12

(In Civil Review No. 285 of 2018)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv.

For the Respondent/s : Mr. Md. Khurshid Alam, AAG 12

(In Civil Review No. 286 of 2018)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv.

For the Respondent/s : Mr. Md. Khurshid Alam, AAG 12

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 09-01-2019

Re: I.A. No.7076 of 2018 in

C. Rev. No.285 of 2018

With

I.A. No.7075 of 2018 in

C. Rev. No. 286 of 2018

In each of the Civil Review applications the petitioners pray for condonation of delay in filing the Civil Review application(s).

Having heard learned counsel for the parties and for the reasons assigned, the delay is condoned.

The interlocutory applications are allowed.



Re: C. Rev. No.285 of 2018
With
C. Rev. No.286 of 2018

Heard Mr. T.N. Maitin, learned Senior counsel for the review petitioners, who appears along with Mr. Shashi Bhushan Kumar Advocate on record, the State is represented by Mr. Arun Kumar Bhagat, A.C. to AAG 12.

These applications are filed for review of the judgment and order of this Court dated 02.05.2018 whereby the claim of the purchaser has been upheld and the preemption application has been rejected inter alia on grounds that the land in question was not big enough for the agriculture purpose having area of 1 katha 4 and ½ dhurs.

Mr. Maitin, learned counsel for the petitioner in reference to the definition of land available under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act') submits that it includes not only agricultural land but horticulture land as well and thus even if land was not big enough for agriculture purposes, it was yet available for horticulture purpose.

We fail to appreciate as to how this issue can be reason for seeking a review especially where no such claim was raised by the preemptor at any stage of the proceedings that the



pre-emption sought was for purpose of horticulture. Neither any such issue was raised by the review petitioners in appeal during its hearing before the Division Bench nor they can be permitted to raise it by way of review application.

The review applications are accordingly dismissed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Bibhash/Ranveer

AFR/NAFR	
CAV DATE	NA
Uploading Date	16.01.2019
Transmission Date	NA

