

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.610 of 2019

In

Civil Writ Jurisdiction Case No.7558 of 2019

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1. Kalyan Jee Son of Parmanand Prasad Singh Resident of Village Belwar, P.S.- Vaishali, District- Vaishali.
 2. Anand Jee Son of Parmanand Prasad Singh Resident of Village Belwar, P.S.- Vaishali, District- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Chairman Bihar Land Tribunal, Patna.
3. The Commissioner Tirhut Division, Muzaffarpur.
4. The Additional Collector Vaishali at Hajipur.
5. The Deputy Collector Land Reforms (DCLR) Vaishali at Hajipur.
6. Rajendra Singh Son of Anirudh Singh Resident of Village and P.O. Belwar, P.S. and District- Vaishali.
7. Smt. Kanti Kumari Sinha Wife of Sri Bindeshwari Prasad Singh Resident of Village Paharpur Chak Ahlad, P.O.- Manien, P.S.- Sahebganj, District- Muzaffarpur.
8. Smt. Shanti Kumari Sinha Wife of Sri Shatrughan Prasad Singh Resident of Village Mohammadpur Damodar, P.O. Mohammadpur, P.S. Sakra, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Parth Gaurav, Adv.
For the Respondent/s : Md.Khurshid Alam (AAG-12)
For Respondent no. 6 : Mr. Ranjan Kumar Dubey, Adv.

CORAM: HONOURABLE MR. JUSTICE ASH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 21-12-2022

1. Heard Mr. Parth Gaurav assisted by Mr. Ashutosh Kumar Pandey, the learned Advocates for the appellants and Mr. Ranjan Kumar Dubey, the learned Advocate for the Respondent nos. 6/ pre-emptors.
2. The appellants are the purchaser of the property.
3. The Respondent no. 6 had sought to pre-empt such purchase by taking resort to the necessary provision under Section Section 16 (3) of the *Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961* (hereinafter after called the Bihar Act of 1961).
4. The claim of the Respondent no. 6/ pre-emptor was repudiated by the Deputy Collector (Land Reforms) in the first instance and by the Collector, Vaishali, later, in Land Ceiling Appeal No. 135/2002.
5. The Respondent no. 6 thereafter challenged



the aforementioned orders before the Divisional Commissioner, Tirhut Division, Muzaffarpur, in revision, which petition was allowed and the claim of pre-emption of Respondent no. 6 succeeded on the ground that the question of a person being adjoining raiyat or being a pre-emptor is to be decided on the day of transfer / claim and that the purchaser had become adjoining raiyats only later i.e. after having purchased two contiguous plots.

6. The orders passed by the DCLR and the Collector in favour of the appellants / purchasers, were set aside in revision.
7. This decision by the Revisional Authority was challenged by the appellants / purchasers before the Bihar Land Tribunal (hereinafter referred to as "Tribunal"), where also the order passed by the Revisional Authority was sustained.
8. The appellants / purchasers challenged the aforementioned orders of the DCLR, Collector and the Tribunal before this Court with a plea that the right of pre-emption abated with the repeal of Section 16 (3) of



Bihar Act of 1961.

9. The learned Single Judge, vide his order dated 22.04.2019, which has been impugned in this appeal affirmed the orders passed by the authorities perhaps only on the ground that the proceedings had culminated in favour of the pre-emptors till the stage of the Tribunal and the reasoning given by the Tribunal for sustaining the orders was ratified.

10. The learned counsel for the Appellants have taken the plea that during the pendency of the writ petition, Section 16(3) of the Bihar Act of 1961 was repealed and by the Bihar Amendment Act of 1919, all proceedings and cases before any forum stood abated.

11. In that event, the Appellants argued that the learned Single Judge ought not to have given any verdict affirming the orders passed by the authorities below but should have declared the proceedings to have abated.

12. As opposed to the aforementioned contention, the learned counsel for Respondent no. 6/ pre-emptors,



