

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.635 of 2022

In

Civil Writ Jurisdiction Case No.5384 of 2020

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Smt. Sharada Devi W/o Nageshwar Paswan, Resident of Village - Berathu,
P.S. Chak Mokhdumpur, District- Jehanabad, at present Village- Dhurgaon,
P.S. Ekangarsarai, District- Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. District Magistrate, Nalanda at Bihar Sharif.
4. Additional Collector, Nalanda at Bihar Sharif.
5. Deputy Collector Land Reforms, Hilsa, Nalanda.
6. Circle Officer, Ekangar Sarai Block, District- Nalanda.
7. Superintendent of Police, Nalanda at Bihar Sharif.
8. Sub-Divisional Police Officer, Hilsa, Nalanda.
9. Station House Officer, Ekangar Sarai Police Station, District- Malada.
10. Sri Niwas Prasad S/o Late Babuchand Mahto, Resident of Village- Dhurgaon, P.S. Ekangar Sarai, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhaneshwar Prasad Gupta, Advocate
For the Respondent/s : Mr. Arun Kumar Bhagat, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 03-01-2023

Heard Mr. Dhaneshwar Prasad Gupta, learned Advocate
for the appellant and Mr. Arun Kumar Bhagat, learned Advocate
for the State.



The learned Single Judge, while dealing with the application filed by one Sri Niwas Prasad, directed the appellant not to interfere with the peaceful possession of the property which vested in him on account of his pre-emption application having been allowed way back in the year 2016.

It appears that the appellant had purchased the said plot of land in the year 2012 from one Anandi Prasad. Shortly thereafter, a pre-emption application with all requisites was filed by the concerned respondent/writ petitioner. In the proceeding before the DCLR, the pre-emption application was allowed but the transfer of land was not made. With the persistence of the writ petitioner, ultimately under provisions contained in Order 14, Rule 20 of the C.P.C., a sale deed was executed by the DCLR and the respondent no. 10/writ petitioner was put in possession on 22.01.2016.

Under the aforesaid circumstances, we do not find any fault with the order passed by the learned Single Judge restraining the appellant from interfering with the peaceful possession of the plot in question.

The argument of the learned counsel for the appellant that the land is still in the possession of the appellant is incorrect as no sooner the application for pre-emption was filed, the pre-



emptor has to be put in possession of the property till the final determination by the concerned Authority and therefore it shall be presumed that the possession is with the respondent/writ petitioner.

There is no merit in this appeal.

The appeal is dismissed but without any order as to costs.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

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AFR/NAFR	NAFR
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