

Letters Patent Appeal No.477 OF 2000

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Against the judgment and order dated 25th January, 2000 passed by the
learned Single Judge in CWJC No.8579 of 1998.
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Smt. Ranjoo Devi	Appellant
	Versus	
The State of Bihar & others	Respondents
	

For the Appellant : M/s Abhay Kumar Singh, Sr Advocate
and Anurag Saurav, Advocate

For the State : M/s Shashi Bhushan Kumar, SC 16
and J.K.Roy, JC to SC 16

For Respondents no.5 & 6 : Mr K.D.Chatterjee, Advocate
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P R E S E N T

THE HON'BLE MR JUSTICE SHIVA KIRTI SINGH
THE HON'BLE SMT. JUSTICE REKHA KUMARI

Shiva Kirti Singh &
Rekha Kumari, JJ. Heard learned counsel for the appellant, learned counsel for the
State and learned counsel appearing for the private respondents no.5 and
6. In spite of notice, nobody has appeared on behalf of respondent no.7,
the vendor or respondent no.8, who is alleged to be another purchaser
from the same vendor of another piece of land.

2. The appellant is admittedly the purchaser of 32 decimals of land
through a sale deed dated 18.5.1990. On such purchase made by her, the
respondents no.5 and 6 filed an application for pre-emption under section

16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 claiming a right of pre-emption by virtue of being adjoining raiyat. The case of the pre-emptors was that through four sale deeds executed in 1948, 1950, 1969 and 1970 by family members of the recorded tenant they had acquired title and possession over 32 decimals of Plot No.195 whose total area is 64 decimals. It was also their claim that the purchaser i.e. the appellant has no other land adjoining to the land purchased by her and, therefore, the pre-emptors are entitled to claim pre-emption.

3. All the three authorities under the Ceiling Act i.e. the Deputy Collector Land Reforms, the Collector, Patna and the Additional Member Board of Revenue have accepted the claim of the pre-emptors. Against their orders the appellant preferred CWJC No.8579 of 1998 which has been dismissed by judgment and order dated 25.1.2000. That order is under challenge before us.

4. From the orders of the authorities contained in Annexures 7, 9 and 11 as well as from the order of the Writ Court it transpires that the only defence of the appellant in the capacity of purchaser was by way of challenge to the title of the pre-emptors/ applicants by pleading that against the recorded tenant a rent suit in the year 1949 had resulted in auction sale of the lands of concerned Plot No.195 and since the purchaser had purchased from the transferee of auction purchaser hence the other

half of the plot purchased by the applicants long back without any challenge must be treated to be of no value and they should not be treated to be adjoining raiyats having title and possession. Such plea has been negatived by the authorities under the Ceiling Act as well as by the Writ Court on proper appreciation of relevant facts and documents.

5. On going through the materials on record, we are in agreement with the findings recorded by the authorities as well as by the Writ Court that the appellant has no valid defence against claim of pre-emption made by the pre-emptors and the orders allowing such claim requires no interference. In that view of the matter, this appeal is found to be without any merit. It is dismissed accordingly. In the facts of the case, there shall be no order as to costs.

(Shiva Kirti Singh,J.)

(Rekha Kumari,J.)

Patna High Court
The 25th April, 2008.

NAFR/ S.Kumar