

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ																				
14-12-2017	<p style="text-align: center;">In The Court Of: Land Reforms Deputy Collector, Arwal. [Bihar Land Ceiling U/S 16 (3)] Case No. 01/ 2015-16 Sonamati Devi- Applicant. Vrs. Mostt. Madhuri Upadhyay – Defendant.01 & Ramashish Sao.- Defendant.02 Present- Rakesh Kumar,DCLR <u>Learned Advocates of Appellant</u> 1. Sri. Narain Singh. 2. Sri. Shailesh Kumar. 3. Sri. Binod Kumar Singh. <u>Learned Advocate of Defendant.</u> 1. Sri. Arvind Kumar. ORDER Both the parties appeared at the time of hearing. The present case is related to</p> <p style="text-align: center;">Schedule-1</p> <table border="1" data-bbox="383 1164 1356 1523"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Kita</th> <th>Area A-D</th> <th>Classification of land</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>96</td> <td>3656</td> <td>Narhat</td> <td>0-27</td> <td>class 3rd.</td> <td>N-Parshu Ram Singh & Sudarshan Singh. S- Rang Nath Singh & Dina Nath Singh. E-Ram Murti Singh W-Sonapati Singh. No. Haza.</td> </tr> </tbody> </table> <p style="text-align: center;">Schedule-2</p> <table border="1" data-bbox="399 1545 1372 1747"> <thead> <tr> <th>Khata</th> <th>plot</th> <th>Area A-D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>96</td> <td>3656</td> <td>0-27</td> <td></td> </tr> </tbody> </table> <p style="text-align: center;">Mauza-Iyara, P.S.+ Anchal-Karpi, Dist-Arwal. The learned advocate of applicant submitted on behalf of Sonamati Devi W/O Sri Mahendra Singh that Mostt.</p>	Khata	Plot	Kita	Area A-D	Classification of land	Boundary	96	3656	Narhat	0-27	class 3rd.	N-Parshu Ram Singh & Sudarshan Singh. S- Rang Nath Singh & Dina Nath Singh. E-Ram Murti Singh W-Sonapati Singh. No. Haza.	Khata	plot	Area A-D	Boundary	96	3656	0-27		
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(R/W)

Madhuri Upadhyay W/O Late Rajiv Ranjan Upadhyay (op-01) is transferor and Ramashish Sao S/O Late Dev Nandan Sao is transferee of land mentioned in schedule one. He said that consideration amount of disputed land is Rs.-2,57,000/- (Two Lacs and fifty Seven Thousand) only and it was registered on 14.08.2015 as agricultural land. Learned advocate informed that petitioner is absolute owner and is in possession of adjoining land bearing plot No-3656 appertaining to khata No-96 area-27 desimals out of total area of 54 desimals situated at Mauza-Ayara, Anchal-Karpi, Dist-Arwal. He informed that land mentioned in schedule-02 was purchased by applicant from most. Parvati Devi & smt. Rati Upadhyay respectively wife & daughter of Late Anand Kishore Upadhyay through registered kewala dated 10.08.2009 and this area of land is in western side of vended land. Learned advocate claimed that Ramashish sao (OP-02) is neither co-sharer nor adjoining raiyat. He informed that applicant has deposited consideration amount of Rs. 2,57,000/ (Two Lacs fifty seven Thousand) only and plus Ten percent of that amount i.e. 25,700/- (Twenty Five Thousand & seven Hundred) only and its total amount is Rs.2,82,700/(Two lacs Eighty Two Thousand and Seven Hundred) only through Treasury challan No-25773 dated 05.11.2015. Learned advocate also stated that applicant has served notices as per law to op-01 & op-02 along with copy of application under LC form No— 13 of Rule-19 (01) of Bihar Land Reforms (Fixation of

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Ceiling Area & Acquisition of Surplus Land) Rule-1963. Learned advocate while arguing in court said that both the parties accepts that disputed land is agricultural and applicant is boundary person & co-sharer of said land. However, he refuted the claim of defendant that op-02 comes under category of Landless. He drew attention towards statement made by op-02 that he has 41 desimals of purchased land in his name, further there is joint 'Jamabandi' in name of three brothers including op-02, comprising total area of 01 Acre 65 desimals & share op-02 comes to 55 desimals. Further, in addition to this in name of grand father of op-02, there is an area of 01 Acre 22 desimals in which share of op-02 comes to 40 desimals. So op-02 has total area of land of 136 desimals (which includes 41 desimals + 55 desimals +40 desimals). Learned advocate claimed that wife of op-02 has total area of 71 desimals in her name. Learned advocate has given details of land of Ramashish Sao in his written argument which is as follows:-

Demand No	Khata No	Area A-D
11/4	117	0-20
139/III	169	0-9.50
45/III	029	0-12.50
		0-42.00

In name of Shyam Pari Devi W/o Ramashish Sao is following land.

Demand No	Khata No	Area
13/4	66, 152	71 desimals

Bew

and to support his point learned advocate has quoted letter No-610 dated 06.08.2016 of circle officer karpi in which details of land held by Ramashish Sao is comprising of 207 desimals. So op-02 has more than 02 Acres of Agricultural land and he is neither co-sharer nor adjoining raiyat. Learned advocate stated that op-02 has raised an objection to report of circle officer, Karpi & claims that he possesses only 96 desimals of agricultural land. However, learned advocate is of view that as per provision of ceiling Act, land held by wife of op No-02 would be clubbed with land of op-02 and to support of his claim learned advocate has submitted rulings of Higher court especially 1976 PLJR (REV)03, case No-713 to 721 of 1975 Mahadev singh vrs state of Bihar and finally, pleaded for pre-emption of land mentioned in schedule one, in favour of applicant.

Learned advocate of opposite party submitted on behalf of Rama Shish Sao (op-02) that vendor was trying to sale the disputed land to applicant but she wanted to pay less than consideration amount mentioned in kewala, then vendor sold it op-02 and thereafter applicant has filed the case to harass them by refusing the above mentioned fact mentioned by applicant. Learned advocate said that op-02 is landless person has only 42 desimals of land. However, while arguing in court learned advocate accepted that applicant is boundary person and disputed land is agricultural. However, he refuted the report of circle officer karpi that op-02 has total area of 02 Acre 07

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desimals but accepted that he has only 96 desimals of land which he has also given in writing on petition filed in this court on 29 August 2017. However, learned advocate quoted the ruling of Honourable High Court, Patna in CWJC No-1429/1977 Aarti Devi vrs State of Bihar, by which property existing in name of wife can not be clubbed with husband's property. So in this case property of Shyampari Devi W/o Ramashish Sao is her self acquired property from her stridhan. So learned advocate pleaded for rejecting the claim of applicant as pre-emption can not be allowed in this case.

Heard the learned advocates & perused the documents available on record. Applicant has submitted kewalas, challan showing the deposited amount in Bank of India, Arwal, postal receipt & letter sent to op's and letter which was refused to accept by op-01 and rulings of Honourable High Court where as opposite party's has submitted written statement & rulings of Honourable High Court to prove that a land less person has right to resume the purchased land. After looking these documents it is found that disputed land is agricultural & applicant is boundary person & co-sharer. However, point of contention is whether Ramashish Sao (op-02) is landless or not. The circle officer, karpri reports, vide letter No-610 dated 06.08.2016 that Ramashish Sao has altogether an area of 207 desimals of land but op-02 accepts that he has only 96 desimals of land and additional land of 71 desimals is in name of his wife is purchased from her

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own earned morey. However, ruling submitted by learned advocate of op-02 in CWJC case No-1429 of 1977 decided on April, 17,1979 is related to Arti Devi the first W/O Harbansh Narain singh and partition had taken place in 1953 because Harbansh Narain singh had married a second wife. So in this case land of Arati Devi can not be clubbed with landed property of Husband otherwise definition of family includes his or her spouse and their minor children and all of their lands have to be taken together for computation of the ceiling area. It is also to be noted that partition in case of Arti Devi had taken place prior to Enactment of Bihar Land Ceiling Act. So areas of lands of wife of Ramashish Sao namely Shyampari Devi is to be tagged together with her husband for determination of ceiling area of the family. So altogether, it seems that applicant has valid & leagal ground for pre-emption as disputed land is agricultural & she is the co-sharer and defendant No-02, Sri Ramashish Sao doesn't come under category of landless. Thus, pre-emption is allowed in favour applicant and defendant No-02 is directed to transfer the land mentioned in schedule-01 to applicant after lapse of thirty days other wise this court will implement the order by Registering the said land to applicant.

Dictated and corrected

Arwal
14/12/17
Land Reforms Deputy Collector
Arwal

Arwal
14/12/17
Land Reforms Deputy Collector
Arwal.