(2015) 04 PAT CK 0023

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3610 of 1993

Jawahar Lal Gupta APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 13-04-2015

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 16(3), 2(f)
Constitution of India, 1950 — Article 226

Citation : (2015) 04 PAT CK 0023

Hon'ble Judges : Chakradhari Sharan Singh, J.

Bench : Single Bench

Advocate : Satya Deo Kumar, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Chakradhari Sharan Singh, J.—No one appears on behalf of the petitioner. Learned counsel for the State as well as learned counsel appearing on behalf of respondent No. 5 is present.

2. The petitioner has sought for quashing of the order dated 10.12.1992 passed in Board of Revenue Revision Case No. 313 of 1991 by the Additional Member, Board of Revenue, whereby he has confirmed an order dated 29.07.1991 passed by learned Additional Collector, Arrah, Bhojpur in Ceiling Appeal No. 4/1989-90. By the said order dated 29.07.1991, the Additional Collector reversed the order passed by the Deputy Collector, Land Reforms, Arrah in Ceiling Case No. 32/1988-89 and, thus, allowed the claim of the pre-emption of respondent No. 5.

3. The matter arises out of a proceeding under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the ''Act''). The dispute relates to the land appertaining to Thana No. 285, Khata No. 710 and Plot No. 1427/2720, admeasuring .6 1/4 decimals, which the petitioner purchased from respondent No. 6 on the basis of a registered Mahadamana dated 07.01.1986. Subsequently,

a registered sale-deed was executed and, thereafter, an application came to be filed by respondent No. 5 before the Deputy Collector, Land Reforms, Arrah, Bhojpur under Section 16(3) of the Act, claiming preferential right of preemption to purchase the said land. The D.C.L.R., Arrah, however, rejected the claim of respondent No. 5 on the ground that the land, in question, was homestead and, therefore, not amenable to the provisions as contemplated under Section 16(3) of the Act.

4. Respondent No. 5 appears to have preferred an appeal before the Additional Collector, Arrah, Bhojpur, who, by the impugned order dated 29.07.1991, reversed the order of the D.C.L.R., Arrah, Bhojpur and held that the land was capable of being used for agricultural or horticultural purposes and, therefore, it fell within the meaning of Section 2(f) of the Act. Referring to the said provision of the Act, the Additional Collector observed that the provision will would an application even to such land as are capable of being used for agricultural or horticultural purposes.

5. The Additional Member, Board of Revenue upheld the decision of the Additional Collector and reiterated that Section 16(3) of the Act had application over such homestead lands which are capable of being used for agricultural or horticultural purposes.

6. I do not find the orders passed by learned Additional Collector, Arrah, Bhojpur and learned Additional Member, Board of Revenue, Bihar, Patna, to be suffering from any infirmity, illegality or otherwise bad warranting interference by this Court in a proceeding under Article 226 of the Constitution of India.

7. I do not find any merit in this application.

8. This application is, accordingly, dismissed.

