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**(2010) 08 PAT CK 0195**

**Patna High Court**

**Case No:** CWJC No. 7934 of 2002

Smt. Shakunia Devi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision:** Aug. 16, 2010

**Citation:** (2011) 2 PLJR 711

**Hon'ble Judges:** Sheema Ali Khan, J

**Bench:** Single Bench

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**Judgement**

@JUDGMENTTAG-ORDER

Sheema Ali Khan, J.

I.A. No. 6441 of 2010 has been filed to expunge the name of Respondent No. 4 from the memo of this writ application as Respondent No. 4 has died during the pendency of this case. The legal heirs of Respondent No. 4 are already on record as Respondents 2, 3, 5 and 6.

2. This application is allowed.

3. The office is directed to expunge the name of deceased Respondent No. 4 from the memo of this writ application.

4. The Petitioner is the purchaser and was aggrieved by the order dated 5.6.2002 passed by the Additional Member, Board of Revenue, Bihar, Patna and the order dated 21.6.1996 passed by the Deputy Collector Land Reforms in favour of the Respondent-pre-emptor.

5. The short facts are that the Petitioner was in possession of Khata No. 57, Khesra No. 137 situated in Village-Brindavan, measuring 26 decimals of land by virtue of a conditional mortgage executed by the vendor in favour of the Petitioner, on 2.5.1988. Later, by two sale deeds dated 4.6.1993, the Petitioner purchased the aforesaid lands. Sale deed No. 3186 was for a consideration amount of Rs. 9,500/- for 20 decimals of land, whereas sale deed No. 3185 was for a consideration amount

of Rs. 3,000/- for 6 decimals of land. The said sale deeds were registered on 30.6.1994.

6. Learned Counsel for the Petitioner has relied on a Division Bench decision of this Court in the case of [Nathuni Mahto Vs. State of Bihar and Others](#), and in the case of Ram Roop Yadav v. State of Bihar reported in 1987 PLJR 455. In the aforesaid two decisions, this Court has held that the purchaser who has purchased a plot or piece of land by two sale deeds becomes an adjoining raiyat of the lands so purchased by virtue of purchase by other sale deed vice-a-versa and as such the pre-emptor cannot claim land on the ground of being adjoining raiyat, as the Appellant is already an adjoining raiyat. This being the legal position, this Court does not think it necessary to go into the other issues raised on behalf of the Petitioner regarding the nature of lands in question.

7. I accordingly quash the orders impugned dated 5.6.2002 (Annexure-3) and order dated 21.6.1996 (Annexure-1).

8. This application is allowed for the reasons aforesaid.