

In The Court of Commissioner, Saran Division, Chapra
Land Ceiling(Pre-Emption) Rev. No. 184/2008
Sudama Sah
Vrs.
Vishwanath Singh & Ors.

ORDER

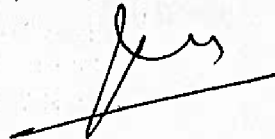
The instant revision is directed against the impugned order passed by Addl. Collector, Gopalganj in Land Ceiling Appeal Case No. 82/2005-06 on 14.02.2008.

The brief facts of the case are that the present petitioner Sudama Sah S/o Bhagelu Sah R/o Village- Baniya Chaper, P.S.- Phoolwariya, Dist- Gopalganj had purchased the disputed piece of land, measuring 11dhur, appertaining to Khata No. 62 R.S.- plot No.- 03 from one Bihari lal Singh by registered sale deed on 28.03.2003. Thereafter one Vishwanath Singh claiming himself to be the co-sharer and boundaryman of the vended land filed a pre-emption case vide land ceiling case No. 07/2003-04 under section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Areas and Acquisition of surplus land) Act, before DCLR, Hathua. The DCLR through an ex-parte order dated 18.08.2003 allowed the pre-emption in favour of the present op. This led to filing of an appeal against the said order of DCLR, Hathua, before Collector, Gopalganj, which was subsequently transferred in the court of Addl. Collector, Gopalganj who initiated the case vide L.C. Appeal No. 82/2005-06 and the same was decide by an ex-parte order dated 14.02.2008 by the Addl. Collector, Gopalganj.

On being aggrieved by and dissatisfied with the aforesaid order of Addl. Collector, the petitioner preferred this revision case before this court.

The learned senior counsel appearing on behalf of the op. requested that the case be heard to day as the petitioner is keeping absent deliberately on several dates only with an intention to prolong this case. Keeping in view the request of the learned counsel, this case is being disposed of on merit after hearing the learned counsel for the op. No. 1. Although the petitioner's counsel was directed to file written statement, but till date no W.A. has been filed by the learned counsel for the petitioner.

The Learned counsel for the petitioner, in his memorandum of revision petition stated that the disputed plot is the Dih basgit and residential house is situated in the boundry as such the provision of this act is not applied in this case. He further stated that due to clerical mistake in the sale deed the nature of land was not shown as residential plot and the learned lower court did not apply the judicial mind while passing the order. Both the courts passed ex-parte orders as such this revision be allowed.



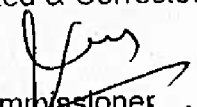
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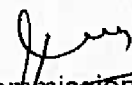
The learned senior counsel appearing on behalf of the o.p No. 1 submitted that the disputed piece of land is an agricultural land and the purchaser is neither co-sharer nor boundry man whereas the o.p No. 1 is the boundry man of the said land and his name is mentioned in the eastern boundry in the sale-deed. The learned counsel further submitted that the present petitioner even neither filed any rejoinder in the court of DCLR nor he appeared to contest his case as such the DCLR, disposed the matter by an ex-parte order and allowed the pre-emption. Against that order an appeal was filed in the court of D.M. , Gopalganj and when the case was transferred in the court of Addl. Collector, the present petitioner did not appeared on several dates viz. 12.12.06, 12.01.2007, 20.02.07, 16.03.07, 17.04.07, 29.05.07, 22.06.07, 27.07.07, 3.12.07, 26.12.07, 1.02.08, and 8.02.08 and the learned counsel was given last chance on two successive dates 02.05.07 and 13.07.07 to place his argument . But the petitioner did not appear and so after hearing the o.p the case of the petitioner was dismissed. He further argued that the petitioner has adopted the same technique here also by keeping absent on several dates. As such this case be disposed of and this revision having no merit fit to be dismissed.

Considering the facts and circumstances of the case material on records and on going through the pleadings made by the learned counsel for the o.p, it is seen that the conduct of the present petitioner before the DCLR as well as before Addl. Collector, was not very fair in asmuch as he neither appeared to defend his case nor he bothered to place his argument to substantiate the relief sought for. I find that , in fact, both the courts below had to pass ex-parte- order as the present petitioner did not pursue his case. So far as claim of the pre-emptor, the op No. 1 is concerned , it is seen that his claim of co-sharer and boundaryman has not been disputed by the present petitioner before the courts below. On the other hand the o.p proved his case that he is the boundaryman and co-sharer of the vended land. Thus, I do not find any illegality in the impugned order of Addl. Collector, Gopalganj which appears to have been passed ex-parte. In fact it is very much obvious that the petitioner does not have any genuine interest to pursue his case .

For the reasons aforesaid, I do not find any merit in this revision as the petitioner counsel did not appear to forward his views in order to prove that the said ex-parte order of Addl. Collector is any way illegal and arbitrary. Hence, this revision is dismissed.

Dictated & Corrected by me.


Commissioner,
Saran Division, Orissa


Commissioner,
Saran Division, Orissa