

In The Court of Commissioner, Saran Division, Chapra

Land Ceiling Revision No. 69/2013

Ram Naresh Prasad & Ors.

Vrs.

Murli Prasad & Ors.

ORDER

10-03-2015 The instant revision application is directed against the impugned order passed by Addl. Collector, Saran in L.C. (Pre-emption) Appeal No. 20/2008 on 01.01.2013.

The brief facts of the case are that the disputed piece of land measuring 3½ dhur, appertaining to Khata No. 33 R.s. plot No. 436 situated in Mauza chaipali P.s. Jalalpur, Dist- Saran was purchased by one Lalita Devi W/o Hari Narain Prasad from one Murli Prasad through registered sale deed on 18.01.2008. Thereafter the present petitioners claiming themselves to be the co-sharer and adjacent raiyat of the vended land, filed a pre-emption case vide L.C. Case No. 28/2007-08 before DCLR chapra Sadar in respect of above sale deed. The learned DCLR vide order dated 25.06.2008 allowed the pre-emption petition. This led to filing of an appeal by the purchaser, the present respondent No. 2 vide L.C. (pre-emption) Appeal No. 20/2008 before Addl. Collector, Saran who in turn vide order dated 31.01.2013 reversed the earlier order of DCLR, and allowed the appeal.

On being aggrieved by and dissatisfied with the order of Addl. Collector, Saran dated 31.01.2013, the present petitioners preferred this revision petition before this court.

Heard the parties.

The learned counsel appearing on behalf of the petitioner, while assailing the impugned order, submitted that the said order is illegal and baseless as the Addl. Collector has held that pre-emption right is not available to the petitioners. He further argued that the learned Addl. Collector has not considered that the vended land is the joint property of all brothers and there is no partition between all brothers. He also submitted that there is nothing in the sale deed document to suggest that the nature of land has been changed into di-h-basgit and the petitioner are co-sharer and adjoining raiyat of the vended land and these facts were not considered by the Addl. Collector.

The learned counsel appears on behalf of the respondents submitted that although name of the purchaser appearing in the eastern boundary of the vended land and the nature of land is of home-stead nature as such no pre-emption right is applicable on such land. He further submitted that the impugned order of Addl. Collector is fit to be upheld.

Considering the facts and circumstances of the case, material available on records and on going through the respective argument advanced by the learned counsel for the parties, it is seen that the disputed piece of land is a tiny plot and in the sale deed document, the purchaser's name has been shown in the eastern boundary and even the recital of the sale-deed document shows that the disputed land is of





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home-stead nature. Although , it is an admitted fact that the pre-emptors are the co-sharer and adjoining raiyat of the vended land but this it self is not sufficient to dilute the claim of the purchaser that the vended land is of home-stead nature and on such land no pre-emption right is applicable . The size of the disputed plot further strengthens the view that the said land is of home-stead nature which has also been corroborated by the pleader commission in his inquiry report.

Thus , for the aforesaid reason, I do not find any apparent irregularity in the impugned order of Addl. Collector, Saran as such the same is upheld and in the result this revision petition is dismissed accordingly.

Dictated and corrected by me.


Commissioner,
Saran Division, chapra

 10-3-15
Commissioner,
Saran Division, Chapra

Memo No..... Date.....
Order Passed on 10/3/15 is Forwarded to The
D/o, Secy.
For information and necessary action and for
Communication to all concerned

Sec To Commissioner
Saran Div Chapra

7/9/13