

In The Court of Commissioner, Saran Division, Chapra
Land Ceiling (Pre-emption) Rev. No. 162/15
Sanjay Kumar Singh
Vrs.
Sukeshwar Prasad & ors.
ORDER

The instant revision petition is directed against the impugned order passed by Addl. Collector, Saran in Land Ceiling (pre-emption) Appeal No. 04/2014 on 28.05.2015.

The brief facts of the case are that the present petitioner Sanjay Kumar Singh S/o Late Budhan Pd. Singh R/o Vill-Sutiha, P.S.-Derni, Dist-Saran purchased the disputed land measuring 01 katha appertaining to khata No. 350 plot No. 2613 through registered sale deed on 08.06.2011 from on Shakila Khatoon. Thereafter, the present respondent claiming himself to be the adjoining raiyat of the vended land, filed a pre-emption case bearing No. Land Ceiling case No. 04/2011-12 before DCLR, Sonpur under the provision of section 16(9) of Bihar Land Reforms (Fixation of Ceiling Areas and Acquisition of surplus land) Act. The learned DCLR after hearing the case, finally vide order dt. 16.08.2013 rejected the claim of the pre-emptor on the ground that the disputed land was purchased for residential purpose and the same is also nearby a road and as such no pre-emption claim can be made. Feeling aggrieved by the said order the present respondent preferred on appeal vide L.C. Appeal No. 04/2014 before Addl. Collector, Saran and who in turn vide his order dt. 28.05.2015 reversed the order of learned DCLR. This led to coming up of this case before this Court under revisional jurisdiction.

Heard the learned counsel for the petitioner only as the learned counsel for the respondent was absent conspicuously on the day of final hearing despite being given last chance on 14.09.2017 by this Court.

The learned counsel appearing on behalf of the petitioner assailed the impugned order by saying that the same is based on surmises and conjectures and further submitted that the learned lower Court committed irregularities in passing the order without perusing the relevant paper. He further submitted that the petitioner acquired the disputed land by that purchase the petitioner becomes co-sharer and adjoining raiyat of the said land and as such no pre-emption petition is maintainable against co-sharer and adjoining raiyat. He also argued that the learned Court below wrongly held that o.p. No. 1 is boundary man on the basis of sale deed dt. 05.02.1982 and also the nature of the land is agriculture rather he ought to have held that the said land is dih-basgit and even he did not believe the report of local C.O. in this connection. He also submitted that the order of the lower Court below is totally confused and the learned Addl. Collector did not apply his judicial mind before arriving at the final findings of facts and as the impugned order lacks sound reasoning the same is fit to be set aside.

Although, the learned counsel for O.P. was absent on the day of final hearing but rejoinder filed earlier by the learned counsel has been taken into consideration. The stand of the o.p. is that the petitioner is neither co-sharer nor adjoining raiyat of the transferred land but o.p. No.1 is adjoining raiyat having agricultural land in the southern boundary of the transferred land. He further mentioned that the transferred land is culturable land but the petitioner has wrongly and illegally mentioned the same as homestead land. He also mentioned that the impugned order passed by Addl. Collector is perfectly justified. Besides this the averments made by the petitioner in different paras have been denied and the same has been termed as false and concocted.

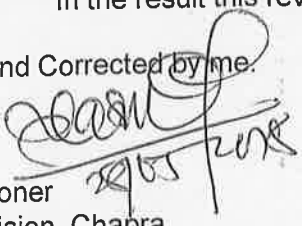


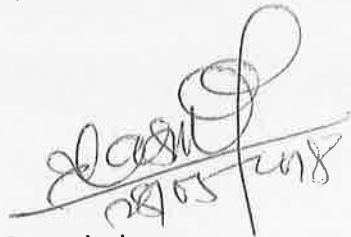
Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the petitioner, averments made in the objection petition filed by o.p. No.-1 and on perusal of the impugned order, it is seen that the disputed land measure 1 katha only. The claim of the petitioner is that the disputed land is dihbassgit land and in the description of land in the sale deed document it has been recorded as residential land and also the petitioner is a landless person against whom no pre-emption claim is maintainable. On the other hand the claim of the respondent is that he is the adjoining raiyat of the disputed land and the land itself is agricultural in nature as such the claim of the respondent is tenable. It is seen that section 16(3) of the Bihar Land Reforms (Fixation of ceiling Areas and Acquisition of surplus land) Act-1961 clearly envisaged that only co-sharer and adjoining raiyat can invoke pre-emption right if the land is transferred to any stranger who is neither co-sharer nor adjoining raiyat of the vended land. The petitioner has miserably failed to prove himself as either co-sharer or adjoining raiyat of the vended land. His other claim is that he being a landless person. This claim is not acceptable also for the lack of documentary evidence. The other claim of the petitioner that the said land is homestead is also not tenable in view of the fact that the enquiry report submitted by C.O. Dariyapur in which it has been mentioned that the said land is of agricultural nature and the respondents own land exist in the southern boundary of the vended land. Thus, it is quite obvious that the claim of the respondent with regard to nature of land as well as adjacency to the vended land has been proved on the basis of the report of C.O. Dariyapur and the same has been held by Court below. The learned Addl. Collector in his detailed and reasoned order has discussed each and every aspects of the case properly before arrived at the final findings. The learned counsel for the petitioner failed to point out any specific illegality in the said order. The claim of the petitioner that he being a landless person has also been rejected by the Addl. Collector. So it appears that nothing goes in favour of the petitioner to defeat the pre-emption claim of the respondent.:

For the aforementioned reasons, the impugned order of Addl. Collector, Saran dt. 28.05.2015 is upheld.

In the result this revision petition stands dismissed.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.